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APPENDIX

In the Supreme Court of the United States

OCTOBER TERM, 1977

No. 76-1621

SENATOR JOHN L. MCCLELLAN, ET AL., PETITIONERS

v.

ALAN MCSURELY AND MARGARET MCSURELY

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

PETITION FOR A WRIT OF CERTIORARI FILED MAY 19, 1977
CERTIORARI GRANTED OCTOBER 11, 1977

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CIVIL DOCKET

United States District Court for the District of Columbia

Date	Proceedings
1969	
Mar. 4	Complaint, appearance, Exhibits A thru D
May 19	Answer of deft. #1 to complaint. filed
May 20	Summons, copy (1) and (—) issued dedt. #5. ser. 6/9/69
July 22	Answer of defts. #1, 4, 7 & 10 to complaint.
Oct. 2	Motion of defts for order staying all pending and further proceedings, pending final judgment in U S A vs McSurely Criminal No. 1376-69 and Criminal No. 1377-69.
Oct. 7	Order granting defendants' application for stay of discovery, without prejudice to plaintiffs; staying discovery until further order of Court. (See order for details) (N) micro 10-8-69 McGuire, J.
Oct. 27	Answer of pltfs. to defts' motion to stay proceedings.
Dec. 9	Motion of pltfs. for leave to file supplemental complaint; exhibit; c/m 12/5/69 and motion to stay the Criminal Trial in U.S. vs. McSurely, pending determination of this action.
Dec. 18	Order granting motion of the defts. for a stay of all pending and further proceedings until 30 days after judgments become final; denying motion for leave to file a supplemental complaint without prejudice; and denying motion to stay the criminal trials in Cr. No. 1376-69 and Cr. No. 1377-69. Hart, J.
Dec. 30	Notice of appeal by pltfs. from order of 12-18-69.
1970	
Jan. 19	Certified copy of order of USCA holding on docket appellants motion for emergency relief; and staying further proceedings in District Court in Criminal Docket Nos. 1376-69 and 1377-69 and Civil Docket No. 3426-69.

Date	Proceedings
1970	
Apr. 17	Certified copy of order of U.S.C.A. that the portion of the order of District Court denying a stay of the Criminal trials is affirmed; and portion of order staying all proceedings is vacated and remanding case to District Court.
1971	
Jan. 29	Motion of plaintiffs to implement the mandate of the United States Court of Appeals, and for leave to file amended and supplemental complaint.
Feb. 22	Motion of defendants for summary judgment or in the alternative for a stay of further proceedings.
Aug. 27	Motion of plaintiff to amend and supplement complaint argued and granted. Bryant, J.
Aug. 27	Motion of defendants for summary judgment argued and denied. Bryant, J.
Aug. 27	Motion of defendants for stay of proceedings argued and taken under advisement. Bryant, J.
Aug. 30	Order denying motion of deft for summary judgment or in alternative for a stay of further proceedings. (Signed 8-27-71) Bryant, J.
Aug. 30	Order granting plaintiffs leave to file amended and supplemental complaint. (Signed 8-26-71) Bryant, J.
Aug. 30	Amended and supplemental complaint changing caption as follows; Alan McSurely and Margaret McSurely, plaintiffs vs John J. McClellan, individually, Jerome Adlerman, Donald F. O'Donnell and John Brick, each individually and as agent of the U.S. Senate Committee on Investigations of the Senate Committee on Government operation and Thomas Ratliff, individually and as sometime CommonWealth Attorney for Pike County, Kentucky, Defendants.

Date	Proceedings
1971	
Oct. 26	Motion of defts. #1, 2, 3 and 4 to dismiss or in the alternative for summary judgment; affidavit; exhibit A.
Oct. 27	Motion of defts. #2, 3 and 4 for a protective order.
Oct. 28	Motion of defts. Alderman, O'Donnell and Brick for a protective order argued and granted. Bryant, J.
Nov. 2	Order vacating notice of pltfs. to take depositions of defts. Adlerman, O'Donnell and Brick pending resolution by Court of motion of defts. to dismiss or in alternative for summary judgment. (Signed 11-1-71) Bryant, J.
1972	
Apr. 18	Memorandum of plaintiffs in opposition to motion to dismiss or in the alternative for summary judgment and further in opposition to defts. motion for a protective order; exhibit; affidavit.
1973	
June 12	Order denying motion of defendants to dismiss or in the alternative for summary judgment. BRYANT, J.
June 27	MOTION of defts for reconsideration of order of 6/12/73 or alternatively for certification.
July 5	MOTION of defts. for stay.
July 9	ORDER denying motion of defts for reconsideration of order of June 12, 1973, or alternatively for certification; declaring moot motion of defts. for stay of discovery; and directing that defts. Brick and Alderman not appear for deposition until physically able. (signed 7/6/73) Bryant, J.
Aug. 6	NOTICE of appeal by Federal defts. from orders of 6-12-73 and 7-9-73. Copies mailed to Morton Stavis and Charles N. Mason, Jr.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ALAN McSURELY and MARGARET McSURELY, 3210 West Broadway, Louisville, Kentucky; SOUTHERN CONFERENCE EDUCATIONAL FUND, 3210 West Broadway, Louisville, Kentucky; SOUTHERN STUDENT ORGANIZING COMMITTEE, Box 6403, Nashville, Tennessee; STUDENT NONVIOLENT COORDINATING COMMITTEE, 360 Nelson Street, Atlanta, Georgia; and STUDENTS FOR A DEMOCRACTIC SOCIETY, 1608 West Madison Street, Chicago, Illinois,

PLAINTIFFS

—against—

JOHN L. McCLELLAN, Chairman, and HENRY M. JACKSON, SAM J. ERVIN, JR., EDMUND S. MUSKIE, ABRAHAM RIBICOFF, ROBERT P. GRIFFIN, KARL E. MUNDT, CHARLES A. PERCY and JACOB K. JAVITS, Members, and JEROME S. ADLERMAN and DONALD F. O'DONNELL, General Counsel and Chief Counsel, of the Permanent Subcommittee on Investigations of the United States Senate Committee on Government Operations, all maintaining office addresses at 3302 New Senate Office Building, Washington, D. C., individually and in their official capacities,

DEFENDANTS.

Civil Action
No. 516-69

VERIFIED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF AND FOR DAMAGES

Plaintiffs, for their verified complaint, allege as follows:

I.

Parties

A. *Plaintiffs*

1. Plaintiffs ALAN McSURELY and MARGARET McSURELY, husband and wife, hereinafter sometimes referred to as the individual plaintiffs, are citizens of the United States and of the Commonwealth of Kentucky. They are staff representatives employed by plaintiff SOUTHERN CONFERENCE EDUCATIONAL FUND, INC., (SCEF). In addition, plaintiff ALAN McSURELY was, until sometime in the fall of 1967, a field organizer for The National Conference For New Politics, and a distributor of literature for Vietnam Summer, and was at one time, employed by the United Planning Organization and the Appalachian Volunteers. At all times hereinafter set forth, said plaintiffs were engaged in attempting to organize the poor and oppressed citizens, both black and white, in the coal-producing counties of Eastern Kentucky, West Virginia and Virginia, in an effort to help these citizens improve their social, political and economic conditions.

2. Plaintiff SOUTHERN CONFERENCE EDUCATIONAL FUND, INC. (SCEF) is a non-profit corporation organized under the laws of the State of Tennessee, domesticated and maintaining an office for business purposes in the Commonwealth of Kentucky, whose purpose it is to help to secure to black and white American citizens in the southern part of the United States rights guaranteed to them under the Constitution of the United States, and to end all forms of racial and economic segregation, discrimination and injustice in the interests of both the black and white citizens thereof.

3. Plaintiff SOUTHERN STUDENT ORGANIZING COMMITTEE (SSOC) is an unincorporated association of young, concerned southern college and university students dedicated to social change through the exercise of protected First Amendment rights in order to achieve a more representative democratic society. Its principal office is in Nashville, Tennessee.

4. Plaintiff STUDENT NONVIOLENT COORDINATING COMMITTEE (SNCC) is an unincorporated association maintaining an office for business purposes in

Atlanta, Georgia, and whose purpose it is to help to secure to all black citizens the rights guaranteed to them under the Constitution of the United States, and to end all forms of racial segregation and discrimination in the interest of black and white citizens throughout the United States.

5. Plaintiff STUDENTS FOR A DEMOCRATIC SOCIETY (SDS) is an unincorporated association of students organized nationally for the purpose of bringing about fundamental changes in the democratic institutions of American society by social and political action through the exercise of protected First Amendment rights. Its principal headquarters is in Chicago, Illinois, and it has local chapters on campuses of high schools, colleges and universities throughout the nation.

6. All plaintiffs sue on behalf of themselves and all others similarly situated, and, in the case of the organizational plaintiffs, on behalf of their staff, members, friends and supporters, all said classes being too numerous to bring before the court.

B. *Defendants*

7. Defendant JOHN M. McCLELLAN is a citizen of the United States and the State of Arkansas, and Chairman of the Permanent Subcommittee on Investigations of the United States Senate Committee on Government Operations, hereinafter sometimes referred to as the Subcommittee.

8. Defendants HENRY M. JACKSON, SAM J. ERVIN, JR., EDMUND S. MUSKIE, ABRAHAM RIBICOFF, ROBERT P. GRIFFIN, KARL E. MUNDT, CHARLES A. PERCY and JACOB K. JAVITS are citizens of the United States and of the States of Washington, North Carolina, Maine, Connecticut, Michigan, South Dakota, Illinois and New York, respectively, and are majority and minority members of the said Subcommittee.

9. Defendants JEROME S. ADLERMAN and DONALD F. O'DONNELL, upon information and belief, citizens of the United States and of the District of Columbia, are General Counsel and Chief Counsel respectively of the said Subcommittee.

10. All defendants are sued individually and in their official capacities.

II.

Jurisdiction

11. The jurisdiction of the Court arises under 28 U.S.C. §§ 1331, 1332, 1334(3) and (4), 2201, 2202; 42 U.S.C. 1981 *et seq.*, and under the Constitution of the United States, and in particular, under the First, Fourth, Fifth, Thirteenth, Fourteenth and Fifteenth Amendments thereto.

III.

Causes of Action

12. The counties in Eastern Kentucky, where the individual plaintiffs live and work, have an estimated 35 billion tons of coal under their rocky, mountainous surface, of which only two billion have been mined in the past 75 years. Yet ten of the twenty poorest counties in the Nation are located in said area. Pike County, the largest coal-producing county in this country, is among them. In 1967, 18,267,200 tons of coal were mined in said Pike County alone. Coal brings from $3 to $15 a ton—depending on the grade—so even at the lowest rate, $55 million worth of coal was taken from Pike County during that year. Pike County has 3500 coal miners who are not members of the United Mine Workers of America (UMW). Although Pikeville, the county seat, has a population of less than 6,000 it has more than 40 attorneys and is the headquarters of the National Independent Coal Operator's Association, Incorporated (NICOA) an association organized by one Thomas Ratliff to represent the interests of all the nonunion mine owners in the area.

13. Plaintiffs, or some of them, have, for some time, publicly opposed the NICOA and certain Pike County officials. The individual plaintiffs have called for an "overthrow of the local Court House Gang" in the county elections next November, and for the election of a slate of people's candidates who would tax the coal leaving the county at a high rate, with the resulting money being used to build good homes, hospitals, schools and roads with locally hired labor. Said plaintiffs have also publicly called for the poor people to "join hands" with the working people of Pike County in fighting their common enemy, the coal operators.

14. On the afternoon of August 11, 1967, Thomas Ratliff, the Commonwealth Attorney for Pike County, who has or once had major coal mining interests, met with Robert Holcomb, president of the Pike County Chamber of Commerce and the NICOA, the sheriff of Pike County, several members of the Fiscal Court thereof and others. At this meeting, plans were formulated for the arrest of the individual plaintiffs and one Joseph Mulloy, (then an organizer for the Appalachian Volunteers, a private, non-profit corporation dedicated to furnishing assistance to the poor people of Eastern Kentucky, West Virginia and Virginia in order to improve their economic conditions), and the seizure of their books, documents and other records. Later that same afternoon, closed hearings were held in the Pike County Court House, as a result of which arrest and search warrants were issued with respect to plaintiff ALAN McSURELY and Josephy Mulloy. At all times on August 11, 1967, and prior thereto, defendants knew that the statute on which said warrants were based, viz. KRS 432.040, had been previously declared preempted by federal legislation by the Supreme Court of Appeals of the Commonwealth of Kentucky in Braden v. Commonwealth, 219 S.W.2d 843.

15. Late on the evening of August 11, 1967, a raiding party of about fourteen men, led by said Thomas Ratliff invaded the home of the individual plaintiffs in Pikeville, Kentucky. When Ratliff discovered that plaintiff MARGARET McSURELY had once worked for plaintiff SNCC, he ordered a member of the raiding party to prepare an arrest warrant for her. After over two hours of rifling through personal belongings of the individual plaintiffs, the raiders transported them to the county jail. The same scene was repeated around one a.m. at the home of Joseph Mulloy. The raids are best described by Circuit Judge Bert Combs in an opinion later invalidating KRS 432.040:

> On the night of August 11, 1967, under authority of warrants charging seditious activity against the United States and the Commonwealth of Kentucky in violation of KRS 432.040, officials of Pike County and their deputies arrested the McSurelys and Mulloy. The officials also seized and impounded 564 loose books, pamphlets and other private and published documents

> found in the McSurelys' home. They also impounded a suitcase of clothes and several personal items which were caught up in the whirlwind of the search. 282 F.Supp. 848, 850.

16. On August 16, a plenary federal action was instituted by individual plaintiffs, SCEF, the National Conference for New Politics, and Vietnam Summer (organizations then employing Alan McSurely), seeking an injunction restraining the enforcement of the overly broad and unconstitutional anti-sedition statute and seeking the return of the seized documents and records. Joseph Mulloy filed an intervening complaint likewise seeking an injunction against the prosecution.

On August 17, a three-judge federal District Court was duly convened to hear and determine the complaint. On September 14 the three-judge court issued a permanent injunction under the authority of *Dombrowski* v. *Pfister*, 380 U.S. 479 (1965) restraining the enforcement of the state statute and the pending state criminal proceedings thereunder. It did not, however, give final relief as to the documents which had been seized under the statute. It ordered instead that the documents and other seized material be kept in the custody of the Commonwealth Attorney, Pike County, Kentucky, pending a possible appeal by the defendants-appellees. No appeal was filed from the foregoing ruling of the United States District Court.

17. On October 16, before the expiration of the time for appeal from the order of September 14, the Commonwealth Attorney for Pike County, holding the documents aforesaid by order of the District Court, was served with a forthwith subpoena *duces tecum* from the Subcommittee to produce certain documents, materials and information broadly relating to the individual plaintiffs and to membership and activities of more than thirteen civil rights and related organizations, some of which was claimed to be in the illegally seized materials. Identical subpoenas were also served upon the United States Marshal and the individual plaintiffs.

18. Plaintiffs, or some of them, on October 18, 1967, filed motions seeking the issuance of a temporary restraining order enjoining the release of the books, papers, documents, and other materials, pursuant to the aforesaid subpoena,

and also a motion for an order directing the return to the individual plaintiffs of said books, papers, documents and other materials. The United States at this point moved for leave to appear *amicus curiae* and filed a memorandum in opposition to the said motion.

19. On October 30, the three-judge District Court, without a hearing, denied the said motion and ordered that the illegally seized documents be turned over to the Subcommittee and that plaintiffs and their counsel "cooperate therewith".

20. Notice of appeal to the Supreme Court was filed—and on application for emergency relief that Court made its order dated November 10, 1967, which stayed the October 30 order conditioned upon plaintiffs' filing with the District Court within five days, objections to the validity of the subpoenas.

21. Following the November 10 order of the Supreme Court, plaintiffs filed their objections to the validity of the subpoenas. Thereafter they filed their motion for an evidentiary hearing and offer of proof. At the same time the United States filed a motion to intervene, to which was attached an affidavit by Senator McClellan and certain exhibits. The Government's motion to intervene was granted. On December 1 the United States filed an opposition to the motion for an evidentiary hearing.

22. A hearing which was in part evidentiary, was held on December 5. The parties filed two stipulations of fact, designated "Stipulation of Facts" and "Further Stipulation of Facts". These stipulations are attached hereto as Exhibits A and B.

23. Under date of December 13, the District Court made its final order which, without explanation or assignment of any reasons, ordered that the objections of the plaintiffs to the subpoenas be overruled, thereby reaffirming and making final its October 30 order denying plaintiffs' motion for the restraining order.

24. A notice of appeal to the Supreme Court of the United States, was filed from said order, and an application was thereupon made to that Court for emergency relief. On January 29, 1968, the Supreme Court made its order, as follows:

> The motion for relief presented to Mr. Justice Stewart,

> and by him referred to the Court, is granted and the order of the United States District Court for the Eastern District of Kentucky of December 13, 1967, is stayed to the extent that the seized documents shall remain in the custody of the Commonwealth's Attorney of Pike County, Kentucky, pending the perfection and disposition of the appeal by this Court.
>
> This stay is conditioned upon the filing of the record, the jurisdictional statement and the docketing of the case within fourteen days from this date and should such appeal be docketed within that time, the Solicitor General is requested to respond to such jurisdictional statement within fourteen days thereafter. In the event the appeal is so docketed, this stay is to remain in effect pending this Court's ruling on the jurisdictional aspect of the case. Should the Court summarily affirm the judgment or dismiss the appeal, this stay shall automatically expire. In the event the Court notes probable jurisdiction or postpones consideration of the jurisdiction until the hearing on the merits, this stay is to remain in effect pending the issuance of the judgment of this Court.
>
> Issuance of this stay in no way represents an adjudication that this Court has jurisdiction of an appeal from the order of the United States District Court hereby stayed.

25. A jurisdictional statement was filed with the Supreme Court pursuant to the foregoing order. However, in view particularly of the cautionary note in the last paragraph of the Supreme Court's order of January 29, 1968, a protective appeal to the United States Court of Appeals for the Sixth Circuit was filed on February 9, 1968.

26. On March 18, 1968, the Supreme rendered a *per curiam* opinion, as follows:

> The motion to dismiss is granted and the appeal is dismissed for want of jurisdiction. The stay heretofore granted is continued for 30 days in order to afford the appellants an opportunity to apply to the United States Court of Appeals for the Sixth Circuit for a stay. If such timely application is made, the stay entered by this Court shall remain in effect until the Court of Appeals acts on that application.

27. By joint motion to the said United States Court of Appeals for the Sixth Circuit, all parties agreed that the said stay would remain in effect until the determination thereby of the said appeal.

28. On July 29, 1968, the said Court of Appeals reversed the Three-Judge Court on the ground that "[T]he right of the Court to retain possession of the seized documents, which include no contraband, has expired." 398 F.2d 817, 818.

29. On November 8, 1968, in the United States Marshal's office in the Federal Building at Pikeville, Kentucky, at approximately 3:30 P.M. the illegally seized materials taken from the individual plaintiffs and Mulloy were returned to them pursuant to the aforesaid direction of the Court of Appeals.

30. As the individual plaintiffs left the Post Office, Joe Mullins, deputy United States Marshal, served them with new subpoenas issued by defendant McClellan and an attached schedule ordering them to appear before the Subcommittee at 10:30 A.M., Tuesday, January 14, 1969. See a copy of one of the subpoenas and schedule attached hereto as Exhibit C.

31. The information sought therein, with minor exceptions, is identical to the information sought in the forthwith subpoenas previously issued by defendant McClellan that were composed on the basis of information obtained by agents of the Subcommittee through inspection of documents known by said agents to have been illegally seized by state and local officials. The new subpoenas call for the production of documents, materials and information broadly relating to the membership and activities of the plaintiffs. In addition, the subpoenas seek information pertaining to the membership and activities of the following civil rights and related organizations, all of which utilized First Amendment freedoms to attain their objectives:

(a) United Planning Organization, an umbrella anti-poverty agency for Washington, D. C., that serves as the primary funding agency for all community action projects in Washington, D.C.;

(b) Appalachian Volunteers, an Office of Enonomic Opportunity project located in the States of Kentucky, Virginia and West Virginia and staffed by VISTA volunteers working among the poor in the Appalachian Mountains;

(c) Vietnam Summer was an unincorporated association maintaining an office for business purposes in the Commonwealth of Massachusetts. Its purpose was to organize the millions of Americans troubled by the War in Vietnam. At the end of the 1967 summer, Vietnam Summer ceased to function;

(d) National Conference for New Politics was an unincorporated association maintaining an office for business purposes in the City and State of New York. Its primary function was to further and advance the growth of a new politics of ordinary people who want to control democratically the decisions that effect their own lives. National Conference for New Politics ceased to function in the fall of 1967.

32. The appearance of the individual plaintiffs before the Subcommittee pursuant to said subpoenas, originally scheduled for January 14, 1969, was subsequently adjourned by defendant McClellan, first to February 25, 1969, and then to March 4, 1969.

33. On or about February 17, 1969, the Senate of the United States adopted S. Res. 26 authorizing the Committee on Government Operations to investigate the efficiency and economy of the Government. A copy of said resolution is attached herewith as Exhibit D.

34. The said subpoenas *duces tecum* were issued as a result of the unlawful conspiracy between defendants, or some of them, and the Pike County authorities involved. With full knowledge of the clear unconstitutionality of the searches and seizures of August 11, 1967, the defendants and said officials unlawfully conspired together to prevent both the individual and organizational plaintiffs from recovering the material in question for the purpose of (a) intimidating, deterring and stigmatizing them, their members, friends and supporters, (b) preventing them from pursuing their political, poverty, peace and/or civil rights activities in eastern Kentucky and elsewhere and (c) furthering its prejudgment of the causes of the civil disturbances in the black ghettoes of the United States which it was purportedly investigating.

The said subpoenas *duces tecum* were fraudulently, illegally and unlawfully structured in that (a) they were designed to and had the effect of projecting to the public at large in general and the Congress of the United States in

particular the stereotype of political, peace, poverty and civil rights organizations as being subversive, (b) they constituted a fishing expedition designed to harass, impede, intimidate and deter political, peace, poverty and civil rights, the activities of plaintiffs, their members, supporters and friends and all other individuals and organizations included therein, (c) they constituted a writ of general assistance, (d) they continued and broadened a pattern and practice of congressional criminality in investigations of political, peace, poverty, civil rights and other organizations, (e) they were part and parcel of an unlawful conspiracy between the subcommittee and the Internal Security Subcommittee of the United States Senate Judiciary Committee to harass, impede, deter and intimidate all of the organizations involved in said subpoenas *duces tecum* and the individuals associated in any way therewith, (f) they refer to organizations not in existence on January 1, 1964, the date of origin set forth therein.

35. The issuance and service of the said subpoenas *duces tecum* were designed by the Subcommittee and the defendants, or some of them, to have and did indeed have the effect of deterring, impeding, intimidating and harassing the plaintiffs as well as all of the organizations mentioned therein and others and chilling their exercise of their fundamental rights under the First Amendment to the Constitution of the United States. Moreover, the issuance and service of the said subpoenas were designed to have and did have the effect of denying to the affected organizations access to their files and records for the purposes of preventing or impeding their fulfilling their stated objectives, *inter alia*, of racial equality and freedom, the termination of American military involvement in South Viet Nam, and the organizing of poor people in the Appalachian Mountain region and elsewhere in the United States. In addition, the issuance and service of the said subpoenas were designed to have and will have the effect, unless restrained by this Court, of exposing the identities of the contributors to and the friends, members, sympathizers and supporters of the plaintiff organizations and others to intimidation, economic retaliation, terrorism and harassment, all to the end and purpose of destroying the organizations in question or their activities.

36. Plaintiffs assert that the subpoenas, the subject matter of this action, constitute a continuation of the harassment of them, solely for the reasons aforesaid, and are designed solely for the purpose of preventing plaintiffs from carrying out their activities as aforesaid and are designed further to deter other persons in the Commonwealth of Kentucky and elsewhere from engaging in like activities.

37. Plaintiffs assert that the subpoenas *duces tecum* are invalid for the reasons hereinafter set forth:

(a). The subpoenas on their face are so broad, sweeping, and lacking in particularity as to constitute an unreasonable search and seizure and thereby violate plaintiffs' rights under the Fourth Amendment to the Constitution of the United States. The subpoenas as served are in language as broad as the traditional Writs of Assistance.

(b). The subpoenas seek documents and records dealing directly with rights of the plaintiffs to freedom of expression and political association and freedom to hold opinions, and the privacy thereof, and thereby violate plaintiffs' rights under the First Amendment to the Constitution of the United States.

(c). The subpoenas are based upon knowledge wrongfully gained from an inspection of documents illegally and unlawfully seized by government officials and are therefore invalid. Agents and employees of the Senate Subcommittee have entered into a conspiracy with representatives of Pike County, Kentucky, wherein, notwithstanding knowledge on the part of all such conspirators that the seizure of documents were covertly and surreptitiously made available to the Senate Subcommittee and said conspiracy and the fruits thereof are the basis for the subpoenas since served upon plaintiffs.

(d). The records and documents referred to in the subpoenas are not relevant or material to the subject matter of any alleged inquiry by the Senate Subcommittee and the investigation sought to be made in respect to those records is beyond the scope of the said inquiry.

(e). The resolution of the United States Senate purporting to authorize the inquiry currently under way by the Senate Subcommittee does not encompass the subject matter touched upon by the subpoenas served upon the plaintiffs nor the inquiry sought to be made with respect to those

documents, nor does the said resolution authorize or empower the Senate Subcommittee to receive and act upon documents unlawfully seized by state officials and improperly turned over to staff of the Subcommittee.

(f). The resolution of the United States Senate, if it is taken as purporting to authorize the instant inquiry by the Senate Subcommittee, does not authorize inquiry into opinions, affiliations, associations, membership, or political activities generally, all being matters protected by the First Amendment, and if the said resolution were to be interpreted as encompassing such matters the same would be unconstitutional under the First Amendment in that the same would purport to authorize an unlimited and compulsory examination of witnesses in the protected areas of speech, press, association, and assembly, in violation of both the procedural requirements of due process of the Fifth Amendment and the substantive requirements of the First Amendment.

(g). The actions of the Subcommittee in the issuance of these subpoenas violate the fundamental guarantees of freedom of speech, press, assembly, association, thought, and belief, the right of citizens to petition their government for redress of grievances, and the right of citizens to be secure in their houses, person, and papers from unreasonable searches and seizures. The subpoenas of the Senate Subcommittee are overbroad and violate the due process rights of the plaintiffs. Their overbroad sweep inhibits and deters the exercise of the rights of freedom of speech, press, assembly, and association, in violation of the First Amendment. The dragnet sweep of the investigation and subpoenas and their overbreadth create a chilling effect upon the exercise of First Amendment rights by the people of the United States.

(h). The delegation of authority by the Subcommittee is so vague, ambiguous and uncertain that it cannot support or authorize any investigation of that subcommittee which may affect or deter citizens of the United States in their exercise of their rights of freedom of speech, press, assembly or association, or may threaten the security of their persons, papers, or property.

(i). The conduct of the Senate Subcommittee from the inception of its so-called investigation has demonstrated

that it is not conducting a bona fide investigation but in fact is using the instrumentality of an investigation to harass those whose views are at variance with the views of the Senate Subcommittee. The said conduct is particularly revealed in the instant case in that the action of the Senate Subcommittee has amounted to an effort to use its powers to continue a repressive prosecution by State's Attorney, Ratliff, the unlawful use of documents illegally seized by State's Attorney Ratliff, and the service of subpoenas flagrantly unconstitutional and overbroad. By its conduct aforesaid the Senate Subcommittee has made clear that it is attempting to deter persons who may disagree with it from exercising their rights under the Constitution of the United States to urge a different point of view from that asserted by the Subcommittee and to use its powers to carry out a repressive prosecution found by this court to have been unconstitutional. By reason of the conduct of the Subcommittee aforesaid it may not have the aid of this court or of the subpoena process in implementing such a program.

38. By reason of the foregoing plaintiffs have been damaged in the sum of $50,000 each.

39. Plaintiffs have no adequate remedy at law.

WHEREFORE, plaintiffs respectfully pray that this Court

(1) issue a declaratory judgment declaring that the subpoenas *duces tecum* issued by defendants and served upon the plaintiffs ALAN and MARGARET McSURELY are unconstitutional and void, and that said plaintiffs are under no compulsion to comply therewith;

(2) issue a preliminary and permanent injunction restraining the defendants, their agents, employees, attorneys and all others acting in concert with them from instituting or seeking to institute civil or criminal proceedings against the individual plaintiffs based upon the aforesaid unlawful subpoenas;

(3) award damages against defendants in the sum of $50,000.00 to each of the plaintiffs herein, and

(4) issue such other relief as this Court may deem appropriate or necessary.

Respectfully submitted,

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EXHIBIT A

Stipulation of Facts

IT IS HEREBY STIPULATED AND AGREED by and between the attorneys for all parties hereto that:

1. Defendant Ratliff announced publicly on or about August 11, 1967, or immediately thereafter substantially to the effect that the seized material would be made available to Congressional Committees.

2. Some time shortly after the decision of this Court on September 14, 1967, Lavern Duffy, Assistant Counsel to the Permanent Subcommittee on Investigations of the Senate Committee on Government Operations (hereinafter referred to as the McClellan Committee), telephoned defendant Ratliff and asked if he Ratliff had the aforesaid seized material in his possession. Ratliff answered in the affirmative.

3. The aforesaid telephone call represented the only contact between Mr. Duffy and defendant Ratliff.

4. On Sunday, October 8, 1967, John Brick, an investigator for the McClellan Committee, visited defendant Ratliff and Thadeus Scott, Commonwealth's Detective, and made known to them his official capacity.

5. Mr. Brick thereupon asked defendant Ratliff whether the aforesaid seized material contained any references to an alleged meeting in Nashville, Tennessee between April 5 and April 8, 1967 at which representatives of the Southern Conference Educational Fund, the Southern Student Organizing Committee and the Student Non-Violent Coordinating Committee, including Stokely Carmichael, were present. Mr. Ratliff replied in the affirmative.

6. Mr. Brick thereupon asked defendant Ratliff specifically whether there was any information in the aforesaid seized material relating to the Southern Conference Educational Fund, the Southern Student Organizing Committee, Students for a Democratic Society, the Student Non-Violent Coordinating Committee, the Progressive Labor Party, Marxist Leninist Organizations, the Communist Party, the Mississippi Freedom Democratic Party, the National Conference for New Politics, the United Planning Organization and the Appalachian Volunteers. Mr. Ratliff replied in the affirmative.

7. Mr. Brick thereupon asked defendant Ratliff whether the aforesaid seized material contained any references to other organizations, none of which are named in the subpoena involved herein. Mr. Ratliff replied in the affirmative as to some and in the negative as to others.

8. On the evening of October 8, 1967, defendant Ratliff accompanied by Mr. Scott visited Mr. Brick in the Land Mark Motel in Pikeville, Kentucky. After some discussion among the three Mr. Scott and Mr. Ratliff left Mr. Brick's room together. Mr. Scott returned some time later bringing with him a number of manila folders containing xeroxed copies of the seized documents. Mr. Scott thereupon departed from the said motel room and Mr. Brick examined the xeroxed material for approximately two hours.

9. On the morning of October 9, 1967, by prearrangement, Mr. Scott picked up Mr. Brick at the Land Mark Motel and conveyed him by automobile to the Pike County Court House. Mr. Brick brought with him the xeroxed material which Mr. Scott had furnished to him the night before and returned it to Mr. Scott. Mr. Scott and Mr. Brick, upon arrival at the Pike County Court House found Mr. Herman Dotson, Assistant Commonwealth's Attorney who opened a locked door to a room for approximately one hour.

10. On October 9, 1967, after inspecting the aforesaid seized material, Mr. Brick proceeded to the United States Post Office in Pikeville, Kentucky, where, in the Clerk's Office, he inspected the file of this action. After inspecting the said file, Mr. Brick asked the aforesaid Clerk to mail to him at his office in Washington, D. C. a copy of the final order of September 14, 1967, and of the inventory attached thereto, which documents he received several days later.

11. On October 12, 1967, Mr. Brick returned to the Pikeville County Court House where, again accompanied by Messrs. Dotson and Scott, he entered the room in which the seized material was kept and examined same for approximately four hours. For the first time, Mr. Brick took notes of the contents of the said material.

12. Mr. Brick thereupon returned to Washington, D. C., where on October 16, 1967, at the personal direction of

Senator John L. McClellan, he prepared the subpoenas involved herein. He thereupon took the said subpoenas to Senator John L. McClellan, Chairman of the McClellan Committee, with whom he had conferred on the subject matter thereof since October 6, 1967. After some discussion with Senator McClellan, four subpoenas were signed and returned to Mr. Brick for further action. True copies of said subpoenas are attached to the affidavit of Senator McClellan dated November 22, 1967. No subpoena was ever issued or addressed to plaintiff Mulloy.

13. Mr. Brick thereupon left Washington, D. C. on the evening of October 16, 1967, and arrived in Louisville, Kentucky, and after arriving in that city, served defendant Ratliff with the appropriate subpoena. Mr. Brick thereupon left Louisville, Kentucky, for Lexington, Kentucky, where, on the afternoon of October 17, 1967, he served United States Marshal Archie Craft with the appropriate subpoena. Prior to said service, Mr. Brick contacted United States District Judge, Bernard T. Moynahan, Jr., by telephone and informed him that he, Mr. Brick, was in the State of Kentucky, for the purpose of serving said subpoenas concerning the said seized material upon Messrs. Ratliff, Craft, McSurely, and Mrs. McSurely.

14. On October 18, 1967, at 8:25 a.m., Mr. Brick served Alan and Margaret McSurely with the appropriate subpoenas at their home in Pikeville, Kentucky.

15. Alan and Margaret McSurely attended a meeting of the Board of Directors of the Southern Conference Educational Fund held at the Methodist Board of Evangelism Building in Nashville, Tennessee, between April 6 and April 8, 1968. Attached hereto and made a part hereof is a copy of the minutes of said meeting as prepared by Clarice T. Campbell, Secretary.

EXHIBIT B

Further Stipulation of Facts

IT IS HEREBY STIPULATED AND AGREED by the parties represented by the attorneys below that:

1. Mr. Brick, if called upon to testify as to the sources of the information upon which the subpoenas involved herein were based, would state that, in addition to information acquired by examination of the seized materials themselves, they would include information received prior to his first contact with defendant Ratliff; some of which information has now been made public in the McClellan Committee hearings. As to that information which has not been made public, he would refuse to divulge its sources, pursuant to Rule 30 of the Standing Rules of the Senate.

2. Copies of some of the seized documents were made available to Mr. Brick prior to the issuance of the subpoenas and are presently in the possession of the McClellan Committee.

3. Without admitting the validity of inclusiveness thereof, the United States is willing to stipulate that representatives of the organizations listed in the subpoenas involved herein would testify, if called, that the purposes and programs of their organizations are as set forth in the complaint filed herein and/or the Plaintiffs' Motion For An Evidentiary Hearing and Offer Of Proof.

.....
Attorney for Department of Justice

.....
Attorney for the United States

.....
Attorneys for Plaintiffs

Dated:
December 5, 1967
Lexington, Kentucky

EXHIBIT C

United States of America

Congress of the United States

To Alan McSurely, *Greeting*:

Pursuant *to lawful authority, YOU ARE HEREBY COMMANDED to appear before the SENATE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS OF THE COMMITTEE ON GOVERNMENT OPERATIONS of the Senate of the United States, on forthwith, 1967, at ..... o'clock ...m., at their committee room 161 Old Senate Office Building, Washintgon, D.C., then and there to testify what you may know relative to the subject matters under consideration by said committee, and produce the records set forth in Schedule A, attached hereto and made a part hereof.*

Hereof fail not, *as you will answer your default under the pains and penalties in such cases made and provided.*

To ..... to serve and return.

Given *under my hand, by order of the committee, this 16th day of October, in the year of our Lord one thousand nine hundred and sixty-seven.*

J. L. McClellan
Chairman Senate Permanent Subcommittee on Investigations of the Committee on Government Operations.

SCHEDULE A

And produce all books, records, correspondence, documents, and other papers which belong to or were subpoenaed from Alan McSurely, Margaret McSurely, and Joseph Molloy, which are in the possession of the Commonwealth's Attorney of the 35th Judicial District, Pike County, Kentucky, as designated in Order 1146 of the United States District Court, Eastern District of Kentucky, Pikeville, dated September 14, 1967, which relate to or pertain to:

(1) Meetings, from April 5 through April 8, 1967, attended by Alan McSurely and Margaret McSurely as individuals or as members or employees of Southern Conference Educational Fund or the Southern Students Organizing Committee held at Nashville, Tennessee, with members of or employees of the Student Non-Violent Coordinating Committee and/or Stokely Carmichael, prior to the civil disturbances (riots) which occurred in Nashville, Tennessee, on or about April 8, 1967;

(2) All books, records, correspondence, documents, and other papers which relate to or are concerned with present or former membership in or employment by the Student Non-Violent Coordinating Committee for the period January 1, 1968, to date;

(3) All books, records, correspondence, documents, and other papers which relate to or are concerned with the memebrship in or employment by the Southern Conference Educational Fund of Alan McSurely and/or Margaret McSurely;

(4) All books, records, correspondence, documents, and other papers which relate to or are concerned with the membership in or employment by Marxist-Leninist organizations and/or the Communist Party, of Alan McSurely and/or Margaret McSurely;

(5) All books, records, correspondence, documents, and other papers which relate to or are concerned with membership in and the activities of the Progressive Labor Party, Students for a Democratic Society, Southern Students Organizating Committee, the Freedom Democratic Party of Mississippi, ACCESS, and JOIN, for the period January 1, 1964, to date;

(6) All books, records, correspondence, documents, and other papers which relate to or are concerned with membership in or employment by the National Conference for New Politics and Vietnam Summer, of Alan McSurely and/or Margaret McSurely for the period January 1, 1964, to date;

(7) All books, records, correspondence, documents, and other papers which relate to or are concerned with Alan McSurely's employment by Appalachian Volunteers;

(8) All books, records, correspondence, documents, and other papers which relate to or are concerned with the employment of Alan McSurely and/or Margaret McSurely by the United Planning Organization (UPO) in Washington, D. C., for the period January 1, 1964, to date.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ALAN MCSURELY and MARGARET MCSURELY, Plaintiffs, v. JOHN L. MCCLELLAN, individually, JEROME ADLERMAN, DONALD F. O'DONNELL, and JOHN BRICK, each individually and as agent of the United States Senate Subcommittee on Investigations of the Senate Committee on Government Operations, and THOMAS RATLIFF, individually and as sometime Commonwealth Attorney for Pike County, Kentucky, Defendants.	FILED Sep. 7, 1971 James F. Davey, Clerk Civil Action 516-69

AMENDED AND SUPPLEMENTAL COMPLAINT

Plaintiffs for their amended and supplemental complaint allege as follows:

I. PARTIES

1. Plaintiffs, Alan McSurely and Margaret McSurely, husband and wife, are citizens of the United States and presently reside in the City and State of New York.

2. Defendant John L. McClellan is a citizen of the United States and the State of Arkansas, and Chairman of the Permanent Subcommittee on Investigations of the United States Senate Committee on Government Operations, hereinafter referred to as the "Subcommittee".

3. Defendants Jerome S. Alderman, Donald F. O'Donnell, and John Brick, upon information and belief, are citizens of the United States and the District of Columbia, and are respectively the General Counsel, Chief Counsel, and Investigator of the Subcommittee.

4. Defendant Thomas Ratliff is a citizen of the United States and the Commonwealth of Kentucky.

5. The defendants Adlerman, O'Donnell, and Brick are sued individually and as agents of the United States Senate Subcommittee on Investigations of the Senate Committee on Government Operations, which said positions they occupied at all times hereinafter mentioned.

6. The defendant Ratliff is sued individually and in his official capacity as sometime Commonwealth Attorney for Pike County, which said position he occupied at all times hereinafter mentioned.

II. JURISDICTION

7. The jurisdiction of the Court arises under 28 U.S.C., Secs. 1331, 1332, 1343(3) and (4); 42 U.S.C., Secs. 1981, 1983, and 1985; and under the Constitution of the United States and in particular under the First, Fourth, Fifth, and Fourteenth Amendments thereto.

8. The matter in controversy exceeds the sum of $10,000.

III. CAUSE OF ACTION

9. The Counties in Eastern Kentucky where the plaintiffs lived and worked in 1967 and 1968 have an estimated 35 billion tons of coal under their rocky, mountainous surface, of which only two billion have been mined in the past 75 years. Ten of the 20 poorest Counties in the nation are located in this area. Pike County, the largest coal-producing County in the area, is among them. Pikeville, the County seat, is the headquarters of the National Independent Coal Operators Association, Inc. (NICOA), which was organized by defendant Ratliff to represent the interests of all the non-union coal mine owners in Eastern Kentucky. Defendant Ratliff has major coal mining interests of his own in Pike County.

10. In April of 1967, plaintiffs Alan and Margaret McSurely settled in Pikeville and became employed by the Southern Conference Educational Fund, a non-profit organization whose purpose is to help to secure to black and white Americans in the Southern part of the United States rights guaranteed to them under the Constitution and to end all forms of racial segregation and economic injustice.

The plaintiffs immediately began to assist the poor and working citizens of Pike County, both black and white, to organize themselves politically in order to improve their social, political, and economic conditions. Plaintiffs were involved in opposition to coal mine operators in general and the non-union NICOA in particular. They also did research on and wrote about certain Pike County officials. Plaintiffs called for an "overthrow of the local Court House Gang", and for the election of a slate of people's candidates who would tax at a high rate the coal leaving the County, with the resulting money to be used to build good homes, hospitals, schools, and roads with local labor.

11. On the afternoon of August 11, 1967, defendant Ratliff, acting under color of his office as Commonwealth Attorney for Pike County, met with Robert Holcomb, president of NICOA and the Pike County Chamber of Commerce, the Sheriff of Pike County, several members of the Pike County Chamber of Commerce and the Fiscal Court thereof, and others. At this meeting, defendant Ratliff suggested that raids be made on the homes of the plaintiffs and one Joseph Mulloy (then an organizer for the Appalachian Volunteers, a private non-profit corporation dedicated to furnishing assistance to the poor people in Eastern Kentucky, West Virginia, and Virginia). Defendant Ratliff also suggested that the plaintiff Alan McSurely and Joseph Mulloy be arrested and that their books, documents and other records be seized. Later the same afternoon, closed hearings were held in the Pike County Court House, as a result of which arrest and search warrants were issued with respect to plaintiff Alan McSurely and to Joseph Mulloy, based upon KRS 432.040, an anti-sedition statute. The indictment framed against plaintiff Alan McSurely and Mulloy was on its face invalid in the light of the decision of the Supreme Court of Appeals of the Commonwealth of Kentucky in *Braden* v. *Commonwealth*, 291 S.W. 2d 843, which applied the principles of federal preemption to prosecutions for sedition.

12. Late in the evening of August 11, 1967, defendant Ratliff led a raiding part of about 14 men, some of whom were deputy sheriffs, into the home of the plaintiffs in Pikeville. When defendant Ratliff discovered that plaintiff Margaret McSurely had once worked for the Student Non-

Violent Coordinating Committee, he ordered a member of the raiding party to prepare an arrest warrant for her. After over two hours of rifling through personal belongings of the plaintiffs, around 11 P.M. defendant Ratliff had them transported to the County jail and seized a pickup truckload of their papers and belongings. The same scene was repeated about 1 A.M. at the home of Mulloy. The raids are best described by Circuit Judge Bert Combs in the opinion which invalidated KRS 432.040:

> On the night of August 11, 1967, under authority of warrants charging seditious activity against the United States and the Commonwealth of Kentucky in violation of KRS 432.040, officials of Pike County and their deputies arrested the McSurelys and Mulloy. The officials also seized and impounded 564 loose books, pamphlets and other private and published documents found in the McSurelys' home. They also impounded a suitcase of clothes and several personal items which were caught up in the whirlwind of the search. 282 F. Supp. 848, 850.

13. The said raids were conducted pursuant to a search warrant unconstitutional on its face and issued on a wholly inadequate affidavit. The said raids were conducted in a grossly unconstitutional fashion and far beyond the scope of the warrant, and included seizure of practically every piece of writing or scrap of paper in the home of the plaintiffs. The apparent purpose and effect of the raids and subsequent prosecutions was later characterized by Circuit Judge Combs as being designed—

> . . . at least in part, in order to stop plaintiff's organizing activities in Pike County. That effect has been successful. Not only has there been the "chilling effect" on freedom of speech referred to in *Dombrowski*, there has been, in fact, a freezing effect. 282 F. Supp. 848, 852-3.

14. The actions of the defendant Ratliff aforesaid constituted a willful deprivation of the rights, privileges and immunities granted to the plaintiffs under the laws and Constitution of the United States and were designed to and had the effect of preventing the plaintiffs from effectively functioning in Pike County.

15. On or about August 11, 1967, or immediately thereafter, defendant Ratliff announced publicly that the seized material would be made available to Congressional committees.

16. On August 16, a plenary federal action was instituted by the plaintiffs herein, seeking an injunction restraining the enforcement of the overly-broad and unconstitutional anti-sedition statute and seeking the return of the seized documents and records.

17. A three-judge federal District Court was duly convened to hear and determine the complaint, and on September 14 it issued a permanent injunction under the authority of *Dombrowski* v. *Pfister*, 380 U.S. 479 (1965), restraining the enforcement of the commonwealth statute and the pending criminal proceedings thereunder. It did not, however, give immediate relief as to the documents which had been seized under the statute. It ordered instead that the documents and other seized material be kept in the custody of the defendant Ratliff "to be held by him in safe keeping" pending a possible appeal by the defendant Ratliff, *et al.* No appeal was filed from the foregoing ruling of the United States District Court.

18. At or about the time of the initial unconstitutional and illegal raids, the defendants McClellan, Adlerman, O'Donnell, Brick, and others to the plaintiffs now unknown, willfully and with intent to deprive plaintiffs of their rights, privileges and immunities granted to them as citizens of the United States by the laws and Constitution of the United States, including particularly the First, Fourth, and Fifth Amendments thereto, acting both individually and jointly and/or in conspiracy with each other, undertook a plan of action to:

a) Continue the course of action undertaken by defendant Ratliff in conjunction with NICOA and others to harass, intimidate and stigmatize the plaintiffs in order to prevent plaintiffs from continuing their political, poverty and civil rights activity in Eastern Kentucky, in violation of plaintiffs' rights under the First, Fifth and Fourteenth Amendments to the United States Constitution.

b) Obtain the private books and records of the plaintiffs, including membership lists of the Southern Conference Educational Fund and other organizations with which plaintiffs were associated, and the personal correspondence of the plaintiffs with their intimate friends for the private purposes of defendant McClellan in order to harass and intimidate plaintiffs and individuals with whom plaintiffs may have been associated, and likewise to serve the objectives of the defendants McClellan, Adlerman, O'Donnell, and Brick to harass plaintiffs and organizations with which they may have been associated, in avoidance of decisions of the United States Supreme Court prohibiting enforced production of membership lists of organizations seeking enforcement of minority rights and guarantees of the Equal Protection of the United States Constitution, thereby violating the rights of the plaintiffs and others under the First, Fifth, and Fourteenth Amendments to the United States Constitution;

c) Use the instrumentality of the Subcommittee investigation to discredit those persons and organizations as are working for the benefit of the impoverished citizens of the United States by branding the activities of said persons and organizations subversive and seditious, in violation of the rights of the plaintiffs in particular and such persons generally under the First, Fifth, and Fourteenth Amendments to the United States Constitution.

The actions of the defendants aforesaid included acting in concert and conspiracy with defendant Ratliff, who was acting under color of his office as Commonwealth Attorney for Pike County.

19. Pursuant to the foregoing and notwithstanding the order of the United States District Court aforesaid, upon instructions of defendant McClellan and under the supervision of defendants Adlerman and O'Donnell, but without the knowledge or approval of the Senate Subcommittee or of the full Senate Committee, defendant Brick met with defendant Ratliff and received his approval, agreement and assistance to inspect, without knowledge of the plaintiffs, the papers which had been unconstitutionally seized from them. Thereupon, defendant Brick did in fact and without the knowledge of the plaintiffs, inspect the private and personal correspondence and papers of the plaintiffs, obtained photographs and copies of 242 items, and took them back to Washington, D.C., where he exhibited them to persons

whose names are unknown to the plaintiffs, to the damage and embarrassment of the plaintiffs.

20. Further, and at the personal direction of defendant McClellan and under the supervision of defendants Adlerman and O'Donnell, defendant Brick prepared subpoenas duces tecum, in fact composed exclusively on the basis of the wrongful inspection and unlawful appropriation of the documents referred to above. Defendant McClellan signed said subpoenas, which were directed both to the plaintiffs and the defendant Ratliff, with full knowledge of the manner in which they were composed. The preparation and proposed use of the said subpoenas, as hereinafter set forth, was deliberately arranged between defendant Brick and defendant Ratliff in the hope that since it was the defendant Ratliff who had physical custody of the papers, he would respond to the subpoena without the possibility of interference by the plaintiffs. Moreover, it was planned that they could conceal the fact that defendant Brick had already inspected all the documents aforesaid and had taken copies of many of them. The defendants McClellan, Adlerman and O'Connell were fully advised of the foregoing and the defendant Brick acted with their knowledge and under their direction.

21. On October 15, before the expiration of the time for appeal from the order of September 14, 1967, in accordance with the aforesaid plan, defendant Ratliff, holding the documents aforesaid by order of the District Court, did in fact receive a subpoena duces tecum from the Subcommittee to produce certain documents, materials and information broadly relating to the plaintiffs and to the membership and activities of more than 13 civil rights and related organizations. This alleged information was claimed to be in the illegally-seized materials of which the defendant Ratliff had temporary custody. Identical subpoenas were also served upon the United States Marshal and the plaintiffs.

22. The surreptitious examination of documents illegally seized, the preparation and issuance of the subpoenas based upon such examination, and the use of any of the documents, objects or articles described therein violated the constitutional rights of the plaintiffs, in particular the rights guaranteed by the First, Fourth, Fifth and Fourteenth Amendments to the United States Constitution, in that among

other things said documents, objects or articles were the fruit of an illegal search and seizure perpetrated for the purpose of harassing persons associated with the plaintiffs and of securing membership lists and other documents in defiance of the United States Constitution and for the purpose of causing the plaintiffs and the working people in the Counties of Eastern Kentucky to halt their attempts to work for the political and civil rights of poor and working citizens.

23. On October 18, 1967, plaintiffs filed motions in their pending action against the defendant Ratliff seeking the issuance of a temporary restraining order enjoining the release of the books, papers, documents and other materials sought under the aforesaid subpoena, and also a motion for an order directing the immediate return of said materials to the plaintiffs. It was in the course of the said litigation that the plaintiffs McSurely were able to establish the surreptitious examination of the documents and the taking of copies by the defendant Brick.

24. This litigation terminated on July 29, 1968, with a decision by the Court of Appeals for the Sixth Circuit directing the return of the seized documents. *McSurely* v. *Ratliff*, 398 F.2d 817, 818.

25. Frustrated in the initial attempt to subpoena the unconstitutionally-seized documents, the defendants McClellan, Brick, Adlerman, and O'Donnell, pursuant to the original plan, arranged for the issuance of new subpoenas duces tecum directed at the plaintiffs, to be served upon them immediately upon the return of the documents, and further arranged to time the return of the illegally-seized documents to coincide with the service of new subpoenas. These new subpoenas were but another attempt to further the aims of the aforesaid plan of the defendants McClellan, Adlerman, O'Donnell, and Brick among themselves and with the defendant Ratliff.

26. Three and a half months after the decision of the Court of Appeals for the Sixth Circuit, on November 8, 1968, in the United States Marshal's office at the Federal Building in Pikeville, at approximately 3:30 P.M., the illegally-seized materials taken from the plaintiffs and from Mulloy were returned to them by agents of the defendant Ratliff and by the defendant Brick. In the process of said

return, the defendant Brick deliberately and consciously made snide and demeaning remarks to plaintiff Alan McSurely in the presence of his wife with respect to her intimate and personal correspondence, of which defendant Brick had improperly received copies over a year before and had shown them to one or more members of the Subcommittee and its staff. Prior to this occasion, plaintiff Alan McSurely had not even been aware that personal correspondence of his wife with respect to a period prior to their marriage had been seized. The date of the return of the documents had been delayed and finally arranged for November 8 jointly by the defendants Ratliff and Brick so that the defendant Brick, acting under orders of the defendants McClellan, Adlerman and O'Donnell, could cause to be served the new subpoenas on the McSurelys as they received the documents pursuant to the court order.

27. The information sought in the new subpoenas, with minor exceptions, was identical to the information sought in the original Subcommittee subpoenas that were composed on the information surreptitiously and unlawfully obtained by Brick and other agents of the Subcommittee through their inspection of the documents pursuant to the arrangements made with the defendant Ratliff, acting under color of the law of the Commonwealth of Kentucky. The new subpoenas called for the production of documents, materials and information broadly relating to the membership and activities of the plaintiffs. In addition, the subpoenas sought information pertaining to the membership and activities of civil rights and related organizations, all of which utilized First Amendment freedoms to attain their objectives, including among others:

a) United Planning Organization, an umbrella anti-poverty agency for Washington, D.C. that served as the primary funding agency for all community action projects in the District of Columbia;

b) Appalachian Volunteers, a project of the Office of Economic Opportunity located in the States of Virginia, West Virginia and Kentucky, and staffed by VISTA volunteers working among the poor in the Appalachian Mountains;

c) Vietnam Summer, an unincorporated association maintaining an office for business purposes in the Commonwealth of Massachusetts. Its purpose was to organize the millions of Americans troubled by the war in Vietnam. At the end of the 1967 summer, Vietnam Summer ceased to function.

d) National Conference for New Politics, an unincorporated association maintaining an office for business in the City and State of New York. Its primary function was to further the growth of a new politics for people who wish to control the decisions which affect their lives. The NCNP ceased to function in the fall of 1967.

28. Plaintiffs assert, and have at all times asserted, that the subpoenas duces tecum were invalid for a number of reasons including but not limited to the following:

a) The subpoenas were based upon knowledge wrongfully gained from an inspection of documents illegally and unlawfully seized by officials of the Commonwealth of Kentucky and thereby violate the plaintiffs' rights under the Fourth, Fifth and Fourteenth Amendments; and

b) The conduct of the Chairman of the Subcommittee and the defendants constituting members of his staff, from the inception of its so-called investigation, demonstrated that they were not conducting a *bona fide* investigation, in that—

i) They were using the instrumentality of an investigation to harass those persons with views differing from those of the Chairman of the Subcommittee. Thus, in the instant case, the defendants in effect lent the investigative facilities of the United States Senate to continue a repressive prosecution by defendant Ratliff by unlawfully inspecting documents illegally seized by Ratliff in order to serve subpoenas which were flagrantly unconstitutional and overbroad.

ii) The defendant McClellan, in fact, used the instrumentality of the investigation to carry out a personal vendetta between himself and a certain personage of prominence named in some of the private correspondence of the plaintiff Margaret McSurely. This flagrant misuse of the powers of his position placed the actions of the defendant McClellan far outside the scope of his office and the protection of his position.

29. On March 4 and 7, 1969, plaintiffs McSurely appeared before the Subcommittee but declined to recognize the

validity of the aforesaid subpoenas and refused to produce the documents listed therein.

30. Thereupon, defendant McClellan, assisted by defendants Adlerman, Brick, and O'Donnell, managed to obtain the support of the Subcommittee, the Committee, and the full United States Senate for prosecutions against the plaintiffs for contempt, by deliberately and consciously withholding facts relating to the issuance of the aforesaid subpoenas, particularly that the said subpoenas were composed on the basis of the surreptitious examination of illegally-seized documents. In doing so, the defendant McClellan sought to conceal the illegal activities which he and the defendants Adlerman, Brick and O'Donnell had engaged in together with the defendant Ratliff.

31. Plaintiffs allege, upon information and belief, that had the members of the United States Senate known of the facts in this matter and the basis for the issuance and framing of the subpoenas, those members would not have approved the contempt citations.

32. In due course the plaintiffs were indicted, tried and convicted for contempt of the Subcommittee, said conviction now pending on appeal. The facts and matters forming the basis of the within complaint were not submitted for determination by the jury in that case and the Court ruled them irrelevant to the narrow issues presented in the contempt proceeding. Accordingly, the issues in this proceeding are unaffected by the contempt prosecution.

33. The aforesaid acts, including the unlawful seizure, inspection, appropriation and publication of plaintiffs' private papers and documents, the deliberate timing of the return of the papers pursuant to court order so that new unlawful subpoenas could be served, the issuance of subpoenas based upon illegally-obtained information, and the deliberate withholding of all the foregoing from members of the United States Senate, all pursuant to the original plan of the defendants McClellan, Adlerman, Brick and O'Donnell, resulted in the continued harassment and embarrassment of the plaintiffs. The publicity surrounding the acts of the said defendants had the effect of stigmatizing the plaintiffs, resulting in a series of threats and incidents of harassment, culminating in the dynamiting of plaintiffs' home on December 13, 1968, as a result of which plaintiffs were

compelled to leave the area of Pike County, thereby effecting one of the primary aims of the original plan—to prevent plaintiffs from continuing their work to advance the political rights and personal well-being of the poor and working citizens of Eastern Kentucky.

34. The aforesaid acts effected pursuant to the plan aforesaid caused the plaintiffs intense mental and emotional pain and suffering, embarrassment, humiliation, and loss of employment, as did the attendant and resultant publicity caused thereby.

35. Plaintiffs seek damages herein for the unlawful seizure, inspection and appropriation of their personal and business papers and documents and other objects and articles, for the issuance of subpoenas based on illegally-obtained information and invalid on their face, for the humiliation and embarrassment, mental and emotional pain, loss of employment, disruption of personal privacy and safety caused thereby, all in violation and derogation of their rights under the First, Fourth, Fifth and Fourteenth Amendments to the United States Constitution and the laws of the United States.

WHEREFORE, plaintiffs respectfully pray that this Court:

1. Award compensatory damages against each defendant in the sum of $50,000 to plaintiff Alan McSurely and a like amount from each defendant to plaintiff Margaret McSurely.

2. Award punitive damages against each defendant in the sum of $50,000 to plaintiff Alan McSurely and a like amount from each defendant to plaintiff Margaret McSurely.

3. Issue such other and further relief as this Court may deem appropriate or necessary.

Attorneys for Plaintiffs

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By: PHILIP J. HIRSCHKOP

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ALAN MCSURELY, *et al.*, PLAINTIFFS, v. JOHN L. MCCLELLAN, *et al.*, DEFENDANTS.	Civil Action No. 516-69

ANSWER

Defendants, John L. McClellan, Edmund S. Muskie, Karl E. Mundt, and Jerome S. Adlerman, by their undersigned attorneys, in answer to the complaint herein, admit, deny, and allege as follows:

1 through 6 inclusive. For lack of knowledge or information sufficient to form a belief, defendants deny the allegations contained in paragraphs 1 through 6 inclusive of the complaint.

7, 8 and 9. Defendants admit the allegations contained in paragraphs 7, 8 and 9 of the complaint.

10 and 11. Defendants deny the allegations contained in paragraphs 10 and 11 of the complaint.

12 through 15 inclusive. For lack of knowledge or information sufficient to form a belief, defendants deny the allegations contained in paragraphs 12 through 15 inclusive of the complaint.

16 through 29 inclusive. For lack of knowledge or information sufficient to form a belief, defendants deny the allegations contained in paragraphs 16 through 29 of the complaint, except that defendants admit that on August 16, 1967, an action was filed in the United States District Court for the Eastern District of Kentucky by Alan McSurely, and others, against Thomas B. Ratliff, and others, to which was assigned Civil No. 1146, and that proceedings were thereafter conducted in the District Court for the Eastern District of Kentucky, the United States Court of Appeals for the Sixth Circuit, and the United States Supreme Court, and that various opinions and orders entered in said proceedings are published as *McSurely* v. *Ratliff*,

282 F. Supp. 848 (E.D. Ky., 1967); *McSurely* v. *Ratliff*, 398 F.2d 817 (C.A. 6, 1968); *McSurely* v. *Ratliff*, 389 U.S. 949 (1967); 390 U.S. 412 (1968); 390 U.S. 914 (1968), and refer the Court to the record of such action for a true and complete statement of the orders and proceedings therein.

30. For lack of knowledge or information sufficient to form a belief, defendants deny the allegations in paragraph 30 of the complaint, except that defendants admit that the subpoenas referred to were issued and duly served.

31. Defendants deny the allegations contained in paragraph 31 of the complaint and defendants respectfully refer the Court to the subpoenas, dated November 4, 1968, for the terms thereof.

32 and 33. Defendants admit the allegations contained in paragraphs 32 and 33 of the complaint.

34 through 39 inclusive. Defendants deny the allegations contained in paragraphs 34 through 39 inclusive of the complaint.

Defendants deny each and every allegation of the complaint not herein admitted, qualified, or denied.

First Defense

The Court lacks jurisdiction over the subject matter of this action.

Second Defense

The complaint fails to allege a justiciable case or controversy.

Third Defense

The complaint fails to state a claim upon which relief can be granted.

Fourth Defense

Any and all actions taken by the defendants John L. McClellan, Edmund S. Muskie, and Karl E. Mundt were done by them as United States Senators in the course of legislative activity and for this reason are absolutely privileged, and defendants John L. McClellan, Edmund S. Muskie, and Karl E. Mundt are, as United States Senators, immune from liability.

Fifth Defense

Any and all actions taken by the defendant Jerome S. Adlerman in the premises were done by him as an official of the federal government in the course of his duties and within the scope of his official duties and for this reason are absolutely privileged.

WHEREFORE, having fully answered, the defendants pray:

1. That the relief requested by plaintiffs be denied and the action herein be dismissed; and

2. That defendants be given all such other and further relief as the Court may deem just and proper.

Respectfully submitted,

William D. Ruckelshaus
Assistant Attorney General

Thomas A. Flannery
United States Attorney

Harland F. Leathers

Irwin Goldbloom
Attorneys, Department of Justice
Attorneys for Defendant

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ALAN MCSURELY, *et al.*, PLAINTIFFS, v. JOHN L. MCCLELLAN, *et al.*, DEFENDANTS.	Civil Action No. 516-69

ANSWER

Defendant, Donald F. O'Donnell, by his undersigned attorneys, in answer to the complaint herein, admits, denies, and alleges as follows:

1 through 6 inclusive. For lack of knowledge or information sufficient to form a belief, defendant denies the allegations contained in paragraphs 1 through 6 inclusive of the complaint.

7, 8 and 9. Defendant admits the allegations contained in paragraphs 7, 8 and 9 of the complaint.

10 and 11. Defendant denies the allegations contained in paragraphs 10 and 11 of the complaint.

12 through 15 inclusive. For lack of knowledge or information sufficient to form a belief, defendant denies the allegations contained in paragraphs 12 through 15 inclusive of the complaint.

16 through 29 inclusive. For lack of knowledge or information sufficient to form a belief, defendant denies the allegations contained in paragraphs 16 through 29 of the complaint, except that defendant admits that on August 16, 1967, an action was filed in the United States District Court for the Eastern District of Kentucky by Alan McSurely, and others, against Thomas B. Ratliff, and others, to which was assigned Civil No. 1146, and that proceedings were thereafter conducted in the District Court for the Eastern District of Kentucky, the United States Court of Appeals for the Sixth Circuit, and the United States Supreme Court, and that various opinions and orders entered in said pro-

ceedings are published as *McSurely* v. *Ratliff*, 282 F. Supp. 848 (E.D. Ky., 1967); *McSurely* v. *Ratliff*, 398 F.2d 817 (C.A. 6, 1968); *McSurely* v. *Ratliff*, 389 U.S. 949 (1967); 390 U.S. 412 (1968); 390 U.S. 914 (1968), and refers the Court to the record of such action for a true and complete statement of the orders and proceedings therein.

30. For lack of knowledge or information sufficient to form a belief, defendant denies the allegations in paragraph 30 of the complaint, except that defendant admits that the subpoenas referred to were issued and duly served.

31. Defendant denies the allegations contained in paragraph 31 of the complaint and defendant respectfully refers the Court to the subpoenas, dated November 4, 1968, for the terms thereof.

32 and 33. Defendant admits the allegations contained in paragraphs 32 and 33 of the complaint.

34 through 39 inclusive. Defendant denies the allegations contained in paragraphs 34 through 39 inclusive of the complaint.

Defendant denies each and every allegation of the complaint not herein admitted, qualified, or denied.

FIRST DEFENSE

The Court lacks jurisdiction over the subject matter of this action.

SECOND DEFENSE

The complaint fails to allege a justiciable case or controversy.

THIRD DEFENSE

The complaint fails to state a claim upon which relief can be granted.

FOURTH DEFENSE

Any and all actions taken by the defendant Donald F. O'Donnell in the premises were done by him as an official of the federal government in the course of his duties and within the scope of his official duties and for this reason are absolutely privileged.

WHEREFORE, having fully answered, the defendant prays:

1. That the relief requested by plaintiffs be denied and the action herein be dismissed; and

2. That defendant be given all such other and further relief as the Court may deem just and proper.

Respectfully submitted,

WILLIAM D. RUCKELSHAUS
Assistant Attorney General

THOMAS A. FLANNERY
United States Attorney

HARLAND F. LEATHERS

IRWIN GOLDBLOOM

Attorneys, Department of Justice
Attorneys for Defendant

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ALAN MCSURELY, *et al.*,
PLAINTIFFS,

v.

JOHN L. MCCLELLAN,
Chairman, et al.,
DEFENDANTS.

Civil Action
No. 516-69

MOTION TO DISMISS OR IN THE ALTERNATIVE
FOR SUMMARY JUDGMENT

Senator John L. McClellan, Jerome Adlerman, Donald O'Donnell and John Brick, defendants in the above-captioned cause, hereby move the Court, pursuant to Rules 12(b) and 56(b), Federal Rules of Civil Procedure, for an order dismissing the amended complaint or in the alternative for summary judgment on the grounds that:

1. Defendants are immune from actions for damages where as here it is clear that their conduct was within the sphere of legislative activity.

2. The complaint fails to state a claim upon which relief can be granted against defendants who were a United States Senator or employees of the Senate of the United States at all times material to this cause.

3. Plaintiffs are barred by collateral estoppel from relitigating issues previously settled by the judgment of this Court in *United States* v. *Alan McSurely and Margaret McSurely,* Criminal Nos. 1376-69, 1377-69 (pending on appeal as Nos. 24,812, 24,813).

In support of these motions, the Court is respectfully referred to the affidavit of Senator John L. McClellan,

attached hereto, and to the Memorandum of Points and Authorities filed herewith.

Respectfully submitted,

.....
L. PATRICK GRAY, III
Assistant Attorney General

.....
THOMAS A. FLANNERY
United States Attorney

.....
IRWIN GOLDBLOOM
Attorney, Department of Justice

Attorneys for Defendants

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ALAN MCSURELY, *et al.*, PLAINTIFFS, v. JOHN L. MCCLELLAN, *Chairman, et al.*, DEFENDANTS.	Civil Action No. 516-69

AFFIDAVIT

JOHN L. MCCLELLAN, first having been duly sworn, deposes and says:

1. Affiant, from January 1943 to the present, has served as the duly elected United States Senator from the State of Arkansas.

2. At all times material hereto affiant has been the Chairman of the Permanent Subcommittee on Investigations of the United States Senate Committee on Government Operations. This committee is a duly established standing committee by the Senate of the United States. Defendants Adlerman, O'Donnell and Brick were, at times material to the allegations of the complainant, general counsel and chief counsel and investigator, respectively, of the Permanent Subcommittee on Investigations (hereinafter referred to as "Subcommittee") and as such were employees of the Senate of the United States. Defendants Adlerman and O'Donnell have since retired and are no longer employed by the Subcommittee.

3. The Senate Committee on Government Operations or any subcommittee thereof was authorized by Senate Resolution 150, 90th Congress, First Session, agreed to on August 11, 1967, Senate Resolution 216, 90th Congress, Second Session, agreed to on March 15, 1968, and Senate Resolution 26, 91st Congress, First Session, agreed to on February 17, 1969, to make investigations from August 12, 1967 to January 31, 1970, on the following matters:

> "To make a full and complete study and investigation of violent disturbances of the peace, vandalism, civil

and criminal disorder, insurrection, the commission of crimes in connection therewith, the immediate and longstanding causes, the extent and effects of such occurrences and crimes and measures necessary for their immediate and long range prevention for the preservation of law and order and to ensure domestic tranquility within the United States."

On or about August 12, 1967, the Chairman of the Senate Committee on Government Operations designated and appointed the Permanent Subcommittee on Investigation to conduct the investigations contemplated by the aforesaid resolution.

4. Pursuant to the authority granted by said resolution the Subcommittee on August 12, 1967, commenced to and has at times material hereto investigated riots and major civil disturbances in urban areas of the United States, to determine whether they were spontaneous or if they were instigated by agitators, militant organizations or lawless elements, and whether such instigation was organized on a national level or on a local level. In the course of such investigations the Subcommittee received from various sources information concerning a riot which had occurred in Nashville, Tennessee on April 8-9, 1967, tending to show the said riot was instigated by persons holding positions in national organizations active in rioting and civil disturbances in several major urban areas of the United States.

5. Pursuant to this information affiant and employees and agents of the Subcommittee, acting as such, sought information concerning records about such organizations which the McSurely's might have had in their custody.

6. Affiant, on or about November 4, 1968, as chairman of the Subcommittee authorized the issuance of a subpoena of the Senate of the United States to Alan and Margaret McSurely, returnable before the said Subcommittee on January 14, 1969, directing the production of certain books, papers and documents. On information and belief, affiant states that the subpoena was duly served on the McSurelys on or about November 8, 1968. The return date on the subpoenas was continued to March 4, 1969, on which date the McSurelys appeared before the Subcommittee and refused to produce any documents as specified in the subpoena.

7. On June 26, 1970, the McSurelys were convicted in the United States District Court for the District of Columbia for contempt of Congress for failing to comply with that subpoena.

8. On or about May 1, 1969, the United States Senate Committee on Government Operations published Report No. 91-137 which outlined the relationship of the Committee and their investigations with respect to Alan and Margaret McSurely. Copy of said report is attached hereto as Exhibit A.

9. In that Report, the Committee found that a Subcommittee staff member travelled to Pikeville, Kentucky, in October 1967, and confirmed that books, records and documents then in the possession of the District Attorney for Pike County, Kentucky, would be of value to the Subcommittee's investigation of the riots in Nashville and other matters relating to organizations then engaged in instigating or fermenting unrest and outbreaks of violence in urban areas. The Subcommittee staff were given some of the documents and other material, and after discussions of the nature of the material the Chairman authorized the preparation and service of subpoenas for the production of certain categories of documents from material held by the Pike County district attorney. These subpoenas were served on the district attorney and the U.S. Marshal for the Eastern District of Kentucky, on October 17, 1967, and on Alan and Margaret McSurely on October 18, 1967, in Pikeville, Kentucky.

10. The staff member of the Subcommittee who had custody of the documents given him by the Commonwealth attorney for the Pike County in October of 1967, and who had sole custody of them in the interim, travelled to Pikeville, Kentucky, on August 14, 1968, and returned the documents to a representative of the Commonwealth's office from whom he had originally received them. On November 3, 1968, Alan and Margaret McSurely were served with new subpoenas calling them to appear before the Subcommittee on January 14, 1969, and produce documents.

11. Affiant flatly denies any conspiracy, collaboration or any other participation of any sort in the allegedly illegal police raid allegedly planned and conducted by defendant Ratliff.

12. Affiant further states that he is informed that defendant John Brick testified, under oath and subject to cross examination, in *United States* v. *McSurely*, Crim. Nos. 1376-7, that John Brick did not play any part in the selection of the documents handed to him in October 1967 by Thadeus Scott, Commonwealth Detective; that Mr. Brick was informed that they were authorized to permit him to inspect the records. John Brick further testified that the documents obtained from the Pikeville Commonwealth Detective were not publicized, distributed, or seen by anybody outside the Committee, and not by anybody "inside of the Committee" either. Documents were maintained in Mr. Brick's personal file, under lock and key, and this was "by order of Senator McClellan." He further testified that the documents were returned to Thadeus Scott on October 14, 1968. Mr. Brick did not make a single copy of any of the documents and he retained none. He does not have any now, and the Subcommittee does not have any. (Tr. 729-730). Senator McClellan was shown only one document by John Brick, and Senator McClellan instructed him to lock that document up and put it in an envelope marked "To Be Opened Only By John Brick, J. S. Adlerman, General Counsel, or Senator McClellan." Mr. Brick did not believe he ever looked at that letter again after he put it in the sealed envelope. (Tr. 732-734).

13. All actions of affiant and defendants Adlerman, O'Donnell and Brick in relation to the McSurelys were done within the scope of the duties required as agents, employees or representatives of the Subcommittee, and all such actions were taken pursuant to a lawful congressional investigation within the legislative authority of the Senate of the United States as assigned to said Subcommittee.

/s/ John L. McClellan
JOHN L. MCCLELLAN

Subscribed and sworn to before
me this 26th day of Oct., 1971.

Wm. R. Lewis
Notary Public

My Commission expires: 12/14/73

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY

ALAN MCSURELY, *et al.*, PLAINTIFFS, v. THOMAS B. RATLIFF, *et al.*, DEFENDANTS.	Civil Action No. 1146

AFFIDAVIT BY JOHN L. MCCLELLAN

John L. McClellan, having been duly sworn, states as follows:

1. I am a member of the United States Senate for the State of Arkansas and have been since 1942. Since 1955, I have been Chairman both of the Senate Committee on Government Operations and of the Permanent Subcommittee on Investigations of the Committee on Government Operations.

2. Attached hereto as Exhibit A is a copy of the statement which I made on Wednesday, November 1, 1967, in connection with the hearings presently being held by the Permanent Subcommittee on Investigations of the Committee on Government Operations sometimes referred to herein as the Subcommittee.

3. Attached hereto as Exhibit B is a copy of the report of the Assistant Chief Clerk of the Committee on Government Operations detailing the approval by the Committee on Government Operations of Senate Resolution 150, prior to the amendment and approval of that resolution by the Senate Committee on Rules and Administration and unanimous approval by the Senate.

4. Attached hereto as Exhibit C is a copy of a letter dated August 12, 1967, in which the duty of carrying out the directions of Senate Resolution 150, 90th Congress, 1st Session, was duly delegated to the Senate Permanent Subcommittee on Investigations of the Committee on Government Operations.

5. Attached hereto as Exhibits D, E, F, and G are one copy each of the subpoenas issued on October 16, 1967, by the Senate Permanent Subcommittee on Investigations of

the Committee on Government Operations, to Alan McSurely, Margaret McSurely, Archie Craft and Thomas B. Ratliff.

6. The Permanent Subcommittee on Investigations has received sworn testimony during public hearings that the riots which occurred in Nashville, Tennessee, on April 8, 1967, and thereafter, were instigated, precipitated or encouraged by individuals identified as members, employees, or affiliates of the Student Non-Violent Coordinating Committee, the Southern Conference Educational Fund, the Southern Students Organizing Committee and the Communist Party or other Marxist-Leninist organizations. The Subcommittee has also received sworn testimony that Alan McSurely and Margaret McSurely, the plaintiffs in this proceeding, attended a meeting or meetings from April 5 through 8, 1967, in Nashville, Tennessee, with Stokely Carmichael and/or members, employees, or affiliates of the Student Non-Violent Coordinating Committee, the Southern Conference Educational Fund, and the Southern Students Organizing Committee.

7. The investigatory staff of the Subcommittee has received information from various sources including the Commonwealth Attorney for Pike County, Kentucky, Thomas L. Ratliff, which information has not yet been the subject of sworn testimony before the Subcommittee, indicating that individuals identified as members, employees, or affiliates of the following organizations have been involved to some extent in causing the riots and other disturbances set forth in Senate Resolution 150: the Students for a Democratic Society, the National Conference for New Politics, Vietnam Summer, the Freedom Democratic Party of Mississippi, ACCESS, JOIN, Appalachian Volunteers, and the United Planning Organization.

8. From the foregoing, it is clear that the materials sought by the Subcommittee mentioned above (Exhibits D, E, F, and G) are highly pertinent to the investigation authorized by Senate Resolution 150.

JOHN L. MCCLELLAN
/s/ John L. McClellan

Subscribed and sworn to before
me at Washington, D.C., this
2nd day of November, 1967.

David G. Stevinson
Notary Public
In and for the District of Columbia

My Commission Expires May 13, 1963

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ALAN MCSURELY, *et al.*, PLAINTIFFS, v. JOHN L. MCCLELLAN, *Chairman, et al.*, DEFENDANTS.	Civil Action No. 516-69 ANSWERING AFFIDAVIT

STATE OF NEW YORK }
COUNTY OF NEW YORK } ss.:

ALAN MCSURELY and MARGARET MCSURELY, plaintiffs herein, being duly sworn according to law, upon their oaths depose and say:

1. We make this affidavit in respect to the motion for summary judgment made by the defendants, and in specific response to the affidavit of Senator McClellan verified October 26, 1971.

2. We admit the statements in paragraphs 1 and 2 of defendant McClellan's affidavit, but deny the statements in paragraph 3 thereof. It is not a fact that Senate Resolution 150 authorized *any* Subcommittee of the Senate Committee on Government Operations to make certain investigations; it was only a duly authorized Subcommittee thereof. Moreover, the actions of the chairman of the Senate Committee on August 12, 1967, purporting to designate the Subcommittee to conduct certain investigations, were beyond his power. In any event, his actions in 1967 applied only to Senate Resolution 150, and not to Senate Resolution 216, which was operative during 1968.

3. We dispute the allegations of paragraph 4 of defendant McClellan's affidavit and state that in fact the Subcommittee was not making an investigation of riots and civil disturbances in urban areas, as stated in the said paragraph, and we specifically dispute the allegation that the Subcommittee had received information concerning a riot which had occurred in Nashville, Tennessee, on April 8-9, 1967, tending to show that said riot was instigated by particular indi-

viduals holding positions in national organizations allegedly active in rioting in several major areas in the United States.

4. We specifically dispute the claim of paragraph 5 of defendant McClellan's affidavit that, pursuant to any information referred to in paragraph 4 he or any agents of the Subcommittee sought information concerning organizations, records of which we might have had in our custody. We state that to the contrary the basis upon which our records were pursued was a plan and conspiracy entered into with the defendant Ratliff for the purpose of harassing us and driving us out of Pikeville, Kentucky, and further for the purpose of pursuing a private vendetta between the defendant McClellan and a person who had corresponded with Margaret McSurely.

5. With respect to the allegations of paragraph 6, we acknowledge that defendant McClellan authorized the issuance of a subpoena on November 4, 1968 but we allege that he had no authority to do so and that said subpoena was entirely unconstitutional and the acts of said defendant McClellan in doing the same were wholly beyond the scope of his power.

6. With respect to the allegations of paragraphs 8 and 9, we admit that the Subcommittee issued a report, No. 91-137, but we contend that said report was the work of defendants McClellan, Adlerman, O'Donnell and Brick, and that the statements therein were wholly self-serving and the true facts with respect to the conduct of the defendants were never revealed to the members of the Committee. Accordingly, the report of the Committee cannot be taken as having any bearing upon either the lawfulness or authorization of the actions of the staff or chairman of the Committee. In any event no report of the Committee could give authority to any members of the staff of the Senate to receive and bring to Washington wholly personal correspondence having no possible bearing on any work of the Committee, nor could any report of the Committee authorize the taking or inspection of documents which had been unlawfully seized.

7. With respect to paragraph 11, in which defendant McClellan flatly denies any conspiracy, collaboration or other participation of any sort in the illegal police raid planned and conducted by defendant Ratliff, we state that on information and belief the defendant McClellan, together

with defendants Adlerman, O'Donnell and Brick, joined in the conspiracy of the defendant Ratliff to force us out of Pikeville, and may have participated in the planning of the original raid, a subject to be determined by discovery; but whether said defendants actively participated in the planning of that raid, they nevertheless participated in the ensuing portions of the conspiracy to force us out of Pikeville.

8. We do not find it necessary to respond to paragraph 12, consisting of a selective review of some of the testimony of Mr. Brick, excepting to state that we do not accept as true the statements of Mr. Brick but expressly dispute the same and intend by further discovery in the course of this litigation and by taking the depositions of defendant Brick and others to get the true facts of this matter. We state that on information and belief the defendant Brick did in fact make copies of some of the private correspondence of Margaret McSurely and showed and distributed the same to staff members of the Committee and perhaps others.

9. With respect to the allegations of paragraph 13 of the affidavit of defendant McClellan, we expressly deny and dispute the contention that the actions of the defendants were within the scope of their duties or that such actions were taken pursuant to a lawful Congressional investigation.

/s/ Alan McSurely
ALAN MCSURELY

/s/ Margaret McSurely
MARGARET MCSURELY

Sworn to and subscribed before me,
a Notary Public of the State of
New York, this 2nd day of November,
1971.

Robert Pincus
Notary Public, State of New York
No. 03-8376215
Qualified in Bronx County
Certificate filed in New York County.

Commission Expires March 30, 1972.

AFFIDAVIT

DISTRICT OF COLUMBIA:

ALAN MCSURELY and MARGARET MCSURELY, of full age, being duly sworn according to law, upon their oath depose and say:

1. The following affidavit is submitted to supplement the record herein.

2. Under date of November 18, 1974, there was reported in *The New York Times* a disclosure of certain documents of the Internal Revenue Service, made as a result of a freedom of information suit filed on July 22, 1974 in the United States District Court for the District of Columbia by Robert Brandon and the Tax Reform Research Group.[1] The material was not made available until November 8, 1974 and not published in the *Times* until November 18, 1974.

3. Following that disclosure, we consulted with plaintiffs in that case, who permitted us to inspect material turned over to them by the Internal Revenue Service. That inspection revealed that there had been one or more meetings between the Activist Organizations Committee of the Internal Revenue Service and the staff of Senator John L. McClellan's Permanent Investigations Subcommittee, which meetings specifically worked out access by the Internal Revenue Service to the McClellan Committee's files.

4. We do not believe it was a coincidence that this apparently was generated on March 5, 1969—one day after we appeared before the McClellan Committee under Subpoena —by a letter of Senator McClellan to the Commissioner of the Internal Revenue Service, dated March 5, 1969.

5. While the material turned over to the Tax Reform Research Group did not include a copy of Senator McClellan's letter of March 5, 1969, it did include a copy of a letter from the Commissioner of the Internal Revenue Service which referred to the Senator's letter of that date. A copy of the Commissioner's letter, dated August 1, 1969 is annexed hereto as *Exhibit A*.

6. Senator McClellan responded to the Commissioner's letter under date of August 8, 1969, stating:

[1] Civil Action No. 74-1083; Robert M. Brandon v. Internal Revenue Service and Donald C. Alexander.

"I am pleased to advise you that I have directed the Subcommittee staff to comply with your request and make available any information we have which may be helpful to your investigation."

A copy of the letter is annexed hereto as *Exhibit B*.

7. The Commissioner's letter of August 1, 1969, followed a joint meeting between the staffs of the Internal Revenue Service and the McClellan Committee, summarized in a memorandum to the file dated July 29, 1969, a copy of which is annexed hereto as *Exhibit C*. This meeting laid the basis for the arrangement whereby Internal Revenue Service staff would be permitted to review the McClellan Committee files.

8. It is obviously of relevance to the case pending before this Court for us to ascertain whether material unlawfully seized from us, including Margaret McSurely's intimate and personal letters and names and addresses of members of numerous organizations, was turned over to the Internal Revenue Service by Defendants in this case.

9. We fully intend to pursue this matter on discovery in preparation for trial.

/s/ Alan McSurely
ALAN MCSURELY

/s/ Margaret McSurely
MARGARET MCSURELY

Sworn to and subscribed before me
this 25th day of November, 1974.

Francis L. Simmons
Notary Public

My Commission expires 6/14/76.

Aug. 1, 1969

Honorable John L. McClellan
Chairman, Senate Permanent Subcommittee on Investigations
Committee on Government Operations
Washington, D.C. 20520

Dear Mr. Chairman:

As you may know, on July 29, 1969, our Compliance people met with Mr. Philip R. Manuel, Mr. Fred R. Miller, and Mr. John R. Drass, staff members of your Committee, to discuss certain Internal Revenue Service plans concerning the type of organizations referred to in your letter of March 5, 1969.

We believe it would be helpful in our investigations if Mr. Paul H. Wright, Mr. Charles (illegible) , Mr. William F. Gibney, Mr. James J. McCarty and Mr. Edward D. Hughes were permitted to inspect and review your files on (deleted) and similar organizations and to discuss them with your staff members. We would appreciate your approval for doing this.

With kind regards,

Sincerely,

(Signed) Randolph W. Thrower
Commissioner

cc: Office of Commissioner
Mr. Paul H. Wright

UNITED STATES SENATE

Committee on
Governmental Operations

Senate Permanent Subcommittee
On Investigations

Washington, D. C.

August 8, 1969

Honorable Randolph W. Thrower, Commissioner
Internal Revenue Service
Department of the Treasury
Washington, D. C.

Dear Commissioner Thrower:

Thank you for your letter of August 1, 1969, in which you request approval for Mr. Paul Wright and others to review certain Subcommittee files and consult with staff members on matters of mutual interest.

I am pleased to advise you that I have directed the Subcommittee staff to comply with your request and make available any information we have which may be helpful to your investigation.

With best wishes for continued success, I remain

Sincerely yours,

John L. McClellan
Chairman

MEMORANDUM FOR FILE:

SUBJECT: *Activist Organizations Committee*

This Committee met in Room 3049 at 9:30 A.M. this morning under the chairmanship of Mr. Paul H. Wright. In addition to the permanent Committee, other persons identified below were present. The principal purpose of the meeting was to discuss what we are doing with representatives of the Senate Committee on Government Operations and to request their assistance and cooperation in this project. The following persons attended:

Mr. Paul H. Wright CP:C
Mr. Donald F. Cowles CP
Mr. William F. Gibney CP:I:O
Mr. Gilbert F. Haley CP:I:O
Mr. James J. McGarty CP:A
Mr. Donald O. Virdin CP:C:D
Mr.Thomas F. Casey CP:AT
Mr. Roy T. Orr, Internal Revenue Agent, Atlanta District
Mr. Edward D. Hughes, AT&F Investigator, Southeast Region
Mr. Philip R. Manuel, Senate Committee on Government Operations
Mr. John E. Drass, Senate Committee on Government Operations
Mr. Fred R. Miller, Senate Committee on Goverument Operations

Mr. Wright outlined the basic functions, plans, and composition of the Committee and what it hoped to accomplish. He pointed out that although the permanent Committee was composed of individuals from only four Compliance activities, it would be necessary to obtain help from all parts of the Service, including the Chief Counsel, Technical, Data Processing, Office of International Operations, and Appellate. Mr. Wright also outlined the following guidelines:

1. Because disclosure of official information will be involved, no changes in this regard will be made. If the Senate Committee on Government Operations or any other outside organization wants information concerning any taxpayer in which the Activist Organizations

Committee is interested, requests for disclosure of information must be made through regular channels and the Disclosure and Liaison Branch.

2. From now on, any informal arrangements for the exchange of data or any questions concerning the activities of the Committee which are desired by the Senate Committee on Government Operations will be made directly to Mr. Wright unless he directs otherwise. This is necessary so that close control can be maintained over the work going on.

3. As soon as permanent quarters and telephones have been established, this information will be furnished to Mr. Manuel.

4. The Internal Revenue Service's principal interest in this matter is to insure that all IRS laws have been complied with, that all income tax returns and payroll tax returns have been filed, that required information returns have been filed, that any income is reported properly. In addition, we will make an in-depth study of the sources of funds to support the activist organizations. As part of this, we will want to determine whether individuals contributing money have deducted contributions legally.

5. The permanent members of the Committee will be:

   Chairman—Mr. Paul H. Wright, Collection Division
   Mr. Edward D. Hughes, Alcohol, Tobacco and Firearms Division
   Mr. William F. Gibney, Intelligence Division
   Mr. James J. McCarty, Audit Division

6. Although the Committee has been created with an indefinite life, it is expected that the permanent members detailed from outside Washington will be working on a full-time basis at least until the end of November 1969. However, it is quite likely that this assignment will continue for a long period of time.

7. As information is assembled by the Committee on any specific organization, the principal investigating agent in the field will be called to Washington to review the data assembled, and it is expected that considerable travel may be done as part of the Committee's operations.

8. It was again emphasized that the Committee is not taking any function from any Compliance division or from any other part of the Service. What we are doing is trying to assemble all information available from within the Service, from the FBI, from the Department of Defense, from any other Federal agency having information, and from any Congressional committee having information. This data will be collated, analyzed, and given to the proper functional unit for attention.

Mr. Manuel, on behalf of the Senate Committee on Government Operations, offered the cooperation of the Committee and access to the Committee files. However, he plans to discuss this with Senator McClellan to obtain final clearance before giving IRS the green light, but he anticipates no difficulty. He described the method of filing used by the Committee, and it is planned that IRS representatives will inspect those files as soon as possible.

Mr. Manuel furnished several charts concerning the Black Panthers, the Students for a Democratic Society, and others, and offered to furnish additional material which we may request. He said the Committee has already published many volumes of hearings and we may obtain copies of these. The hearings which have just been concluded have not been printed, nor has the report been written, and it will probably be two or three months before they are finally issued.

In summary, it can be said that the Committee has been created and will begin full-scale operation as soon as the space has been made available. Also, from today on, any contact with other agencies having to do with the organizations in which this Committee is interested should be cleared with the Chairman, or made as directed by him. We do not want to have this rather sensitive matter handled loosely. Any questions may, for the time being, be directed to Mr. Wright in Room 5242, Extension 3897.

A copy of this memorandum has been delivered to each person attending the meeting, to each Compliance Division Director, and to each person not otherwise receiving a copy who attended the organizational meeting of July 24, 1969. However, copies will not be furnished to representatives of the Senate Committee on Government Operations.

/s/ D. O. Virdin
D. O. Virdin

COPIES FURNISHED TO

Mr. Paul H. Wright	CP:C
Mr. Donald F. Cowles	CP
Mr. William F. Gibney	CP:I:O
Mr. Gilbert F. Haley	CP:I:O
Mr. James P. McGarty	CP:A
Mr. Thomas F. Casey	CP:AT
Mr. Roy T. Orr	Atlanta District
Mr. Edward D. Hughes	Southeast Region
Mr. Charles E. Fink	D:C:P
Mr. Richard M. Hahn	CC
Mr. Thomas W. Hines	CP:AT
Mr. Paul L. Kane	T:MS:EO
Mr. Bernard L. Meehan	CP
Mr. Richard T. Stockton	T:I:I
Mr. Walter L. Stumpf	CP:AP:SA
Mr. Singleton B. Wolfe	CP:A
Mr. Arthur H. Klotz	CP:AP
Mr. Harold A. Serr	CPAT
Mr. Harold E. Snyder	CP:C
Mr. William A. Kolar	CP:I
Mr. Charles I. Fox	CP:IO

AFFIDAVIT

District of Columbia:

Alan and Margaret McSurely, each being duly sworn according to law, upon their oath depose and say:

1. We are the Plaintiffs in this matter.

2. Under date of November 25, 1974, one day before oral argument herein, there was filed with the Court a Motion for Leave to File a Supplemental Affidavit, with which affidavit there were included materials which had come into the Plaintiffs' possession a few days earlier as a result of revelations by the government in a freedom of information suit known as *Robert M. Brandon* v. *Internal Revenue Service and Donald C. Alexander,* Civil Action No. 74-1083, United States District Court for the District of Columbia. The Court has not acted on that motion.

3. The material included in that affidavit dealt with correspondence between the McClellan Committee and the Internal Revenue Service, as well as a "Memorandum for File" from the files of the I.R.S. describing a conference between the staff of the "activist Organizations Committee" of the I.R.S. and the staff of the McClellan Committee.

4. As pointed out in the memorandum to this Court submitted with that material, it appeared that the relationship between those two groups was generated on March 5, 1969, one day after we appeared before the McClellan Committee. At the time of the foregoing submission, we did not have the March 5, 1969, letter of Senator McClellan.

5. Following the submission of the foregoing material and on the afternoon of November 25, 1974, we received copies of additional material turned over by the Government in the freedom of information suit on that day, two items of which revelation are of decisive importance for this case.

6. Attached hereto and made a part hereof as *Exhibit A* is a Department of Justice letter dated November 25, 1974, to Larry P. Ellsworth, Esquire, transmitting the information; attached hereto as *Exhibit B* is a copy of the letter dated March 5, 1969, from Senator McClellan to the Secretary of the Treasury; attached hereto as *Exhibit C* is a fact sheet which appears to have been dated August 7, 1973,

entitled "Establishment of Special Service Staff." The authorship of this fact sheet appears to be within the I.R.S.

The importance of the latter two documents to this case becomes clear from the following:

a) Senator McClellan's letter is dated one day after we appeared before his Committee.

b) Senator McClellan's letter establishes a relationship between the Committee and the I.R.S. with respect to 22 organizations. Nine of these, namely, organizations 1, 2, 3, 4, 6 ,12, 13, 14, and 15, are involved in the documents[1] which had been seized from us and named in our subpoenas.

c) It now appears from the fact sheet that the Special Service Staff of the I.R.S. was not established as a result of instructions from the White House, as had been reported in the press, but emerged as a result of pressure from the McClellan Committee and the relationship established between that Committee and the I.R.S. beginning on August 28, 1968.

d) The pattern of that relationship emerges in communications of August 28, September 19, and September 27, and in a meeting on September 11, 1968, between Defendant Donald C. O'Donnell and Philip Manuel of the McClellan Committee and I.R.S. employees. The fact sheet shows the establishment of a close working relationship between the McClellan Committee and the I.R.S. which included "the exchange of data." Thus, as explained in the "Memorandum for file" of July 29, 1969,[2] Mr. Manuel "on behalf of the Senate Committee on Government Operations, [illegible] the cooperation of the Committee and access to [illegible] mittee files. While he had to check the matter with Senator McClellan, "he anticipates no difficulty. He described the method of filing used by the Committee, and it is planned that I.R.S. representatives will inspect those files as soon as possible."

e) The dates—August through September, 1968—are of enormous significance to this case. The decision of the Court of Appeals for the Sixth Circuit directing the Mc-

[1] Organizations 2, 3, and 4 were all related to the Student Non-Violent Coordinating Committee, and Organizations 14 and 15 were related to the Progressive Labor Party.

[2] This was included in the first supplemental submission to this Court as Exhibit C.

Clellan Committee to return to us our papers occurred on July 29, 1968. However, a delay of over three months occurred before we were able to obtain the return of our personal letters and other documents—finally on November 8, 1968, after they had been in the hands of the McClellan Committee for over a year! For the first time we have a clue to the cause of this three-month delay. It was *precisely during this period* that arrangements were made for inspection by the I.R.S. of McClellan Committee files authorized, according to the fact sheet (Exhibit C), by a letter from Defendant McClellan on September 19, 1968, and quickly acted upon by the Commissioner of I.R.S. on September 27, 1968, eleven days *before* copies of the 234 documents which had been unlawfully seized from us in Kentucky were finally returned to us.

/s/ Alan McSurely
ALAN MCSURELY
/s/ Margaret McSurely
MARGARET MCSURELY

Sworn to and subscribed before me
this 2nd day of December, 1974
Marilyn D. Mundy
Notary Public
Wash., D. C.

EXHIBIT A

UNITED STATES DEPARTMENT OF JUSTICE
WASHINGTON, D.C. 20530
November 25, 1974

Address Reply to the
Division Indicated
and Refer to Initials and Number
SPC:JJMcC:DJGavin:sbc
5-16-854

Larry P. Ellsworth, Esquire
2000 P Street, N.W., Suite 700
Washington, D. C. 20036

Re: Robert M. Brandon v. Internal Revenue Service and Donald C. Alexander, Civil No. 74-1083 (USDC District of Columbia)

Dear Mr. Ellsworth:

The Chief Counsel, Internal Revenue Service, transmitted to this office this morning the enclosed seven documents to be transmitted to your client. Document Nos. one (1) through six (6) listed below would seem to fall within the description of the documents sought in paragraph 6 of the complaint. The March 5, 1969 letter, Document No. 7 below, while not apparently within the scope of the complaint, was referred to in documents previously furnished to you and accordingly, it is being transmitted with this letter. The seven documents enclosed are as follows:

1. Memorandum dated July 24, 1969.
2. Memorandum to the file dated July 29, 1969, signed by D. O. Virdin (This document has already been provided to plaintiff with the exception of the last page.)
3. Memorandum for the file dated July 31, 1969, with typed signature of D. O. Virdin.
4. Memorandum dated July 31, 1969, from Don Virdin to Mr. Snyder.
5. Memorandum for the file dated August 6, 1969, signed by D.O. Virdin.
6. Fact sheet dated August 7, 1973, entitled "Establishment of Special Service Staff."

7. Letter dated March 5, 1969, from Senator McClellan to Secretary of the Treasury Kennedy.

It should be noted that a paragraph on pages three through five of the fact sheet dated August 7, 1973 (Document No. 6) has been deleted from the enclosed copy of that document. This deletion has been made because this portion of the document relates to testimony before an Executive Session of the Senate Committee on Government Operations, and this information cannot be provided to a member of the public without the permission of the Senate Committee.

As Mr. Gavin of this office advised you by telephone this morning we will withhold filing the Stipulation of Dismissal you previously signed, pending further advice from you.

Sincerely yours,
SCOTT P. CRAMPTON
Assistant Attorney General
Tax Division
By: John J. McCarthy
JOHN J. McCARTHY
Chief
General Litigation Section

Enclosures

EXHIBIT B

UNITED STATES SENATE

Committee on
Government Operations

Senate Permanent Subcommittee
on Investigations

Washington, D.C. 20510

March 5, 1969

Dear Mr. Secretary:

In accordance with Executive Order 11337, dated March 27, 1967, a resolution was duly adopted by the Committee on Government Operations on September 18, 1968, with regard to the organizations listed on the attached pages. It should be noted that this request was made on December 16, 1968, prior to the expiration of Executive Order 11337. This is to reaffirm the same request pursuant to Executive Order 11454 dated February 7, 1969, and Treasury Decision 6133.

Pursuant to this resolution, I hereby designate the following individuals, members of the Subcommittee staff, to make such examinations: Mr. Philip R. Manuel, Mr. John E. Drass, Mr. Fred P. Miller, Mr. Perman H. Clay, Mr. James H. Dillon, and Mr. Walter S. Fialkewicz. In this connection, it will be appreciated if the files could be assembled in the district office of jurisdiction. In order to facilitate the work of the staff, it would be further appreciated if the staff designees be permitted to consult with Internal Revenue Agents and Auditors familiar with the content of the respective files.

Your cooperation in this matter will be greatly appreciated.

Sincerely yours,
John J. McClellan
Chairman

Honorable David M. Kennedy
Secretary of the Treasury
Washington, D. C.

1. The Student Non-violent Coordinating Committee,
   360 Nelson Street, Atlanta, Georgia
2. The Student Voice, Inc.,
   360 Nelson Street, S.W., Atlanta, Georgia
3. The Sojourner Motor Fleet, Inc.,
   360 Nelson Street, S.W., Atlanta, Georgia
4. The Southern Education and Research Institute, Inc.,
   859½ Hunter Street, Atlanta, Georgia
5. The Congress of Racial Equality,
   200 W. 135th Street, New York, New York
6. The Students for a Democratic Society,
   1608 W. Madison Street, Chicago, Illinois
7. The Black Panther Party,
   Oakland, California
8. The Revolutionary Action Movement,
   Philadelphia, Pennsylvania
9. The Deacons for Defense and Justice,
   Jonesboro, Louisiana
10. The Nation of Islam,
    634 E. 79th Street, Chicago, Illinois
11. The Afro-American Research Institute, Inc.,
    224 E. 46th Street, New York, New York
12. The Southern Conference Education Fund
    3210 West Broadway, Louisville, Kentucky
13. The Progressive Labor Party
    CPO Box 808, Brooklyn, New York
14. Rosen Publishing Company,
    336 Lenox Avenue, New York, New York
15. Tri-Line Offset Company, Inc.,
    461 West Broadway, New York, New York
16. The Medical Committee for Human Rights,
    New York, New York, with branch offices in Chicago, Illinois; Cambridge, Massachusetts; and Selma, Alabama
17. The Fund for Education and Legal Defense,
    30 E. 42nd Street, New York, New York
18. The Minutemen,
    Narbonne, Missouri
19. The American Nazi Party
    Arlington, Virginia
20. The United Klans of America, Inc.,
    Tuscaloosa, Alabama

21. The White Knights of the KKK,
    Laurel, Mississippi
22. The National States Rights Party,
    Savannah, Georgia

EXHIBIT C

Fact Sheet

Establishment of Special Service Staff

Allegations have been made that the Internal Revenue Service established the Special Service Staff from instructions received from White House officials. This simply is not true. The facts are these:

August 28, 1968. Mr. Philip Manuel, an investigator with the Permanent Committee on Investigations, Senate Committee on Government Operations, contacted the Service to say that he had a group of seven investigators working for him on matters pertaining to certain organizations and other groups; that he had prepared a letter for the Chairman of the Committee, Honorable John J. McClellan; and that he expected the request to be signed shortly. His call was to alert us to the fact that he wanted the Committee investigators to be permitted to discuss these matters with our District officials rather than to conduct inspection of returns in the National Office.

September 11, 1968. At the request of the Committee investigators, a meeting was held in Room 5213, Internal Revenue Service Building. Representing the Committee were Mr. Donald F. O'Donnell, Chief Counsel, and Mr. Philip Manuel, an investigator. Also present were Internal Service employees. The purpose of this meeting was to establish procedures so that when the formal request was received from Chairman McClellan prompt action could be taken by the Service.

September 19, 1968. The letter referred to above was signed by Chairman McClellan; received by the Commissioner of Internal Revenue on September 20, 1968; and by the Disclosure and Liaison Branch on September 24, 1968. A copy of the letter and a copy of the Resolution adopted by the Committee is available for inspection.

September 27, 1968. A response to this letter was signed by the Commissioner and mailed on September 27, 1968. On that same day instructions were sent to District Directors in all District offices concerned, authorizing them to

cooperate with designated Committee investigators. Copy of the response to Chairman McClellan and instructions to the District Directors are also available for inspection.

May 29, 1969. Honorable John J. McClellan, Chairman, asked for certain information concerning the Student Nonviolent Coordinating Committee and permission for designated Internal Revenue Service employees to testify before the Senate Permanent Subcommittee on Investigations of the Committee on Government Operations.

June 20, 1969. In response to the letter of May 29, former Commissioner Thrower furnished the requested information and authorized Internal Revenue Service officials to testify in Executive Session. A copy of this letter is also available for inspection.

July 2, 1969. As a result of Assistant Commissioner Bacon's memorandum, a meeting was held in his office to discuss the information that had been developed; and on that date, there was general agreement that a National Office task force or group should be established which would collect basic information on the organizations of the type in which the Senate Committee on Government Operations was interested and to see that there was coordination between all Compliance activities and other affected parts of the Internal Revenue Service.

July 8, 1969. Another meeting was held in the office of the Assistant Commissioner (Compliance) to discuss this matter and to determine what should be done to implement the understanding reached at the meeting of July 2. Basically, the decision was made that some permanent group be established to coordinate these matters.

July 18, 1969. All Compliance Division Directors, the Chief Counsel, the Assistant Commissioner (Technical), and the Assistant Commissioner (Data Processing) were advised in writing by the Assistant Commissioner (Compliance) that a committee was being established to "coordinate activities in all Compliance Divisions" to insure that the requirements of the Internal Revenue Code concerning such organizations have been complied with.

July 24, 1969. An organizational meeting was held in response to Assistant Commissioner Bacon's memorandum

referred to above, and basic rules for functioning were established. Mr. Paul Wright had been designated by Assistant Commissioner Bacon as chairman of the permanent "committee" which, at that time, had not been given any formal name.

Thus the files of the Internal Revenue Service, which have been carefully reviewed, do not reflect in any way that the present Special Service Staff which was established in July 1969 was established at the direction of the White House. The present functions of this Special Service Staff are set forth in Manual Supplement , copies of which are available to the public.

This Special Service Staff, although it consists of only eight persons coordinating the various information, and although it was created solely for tax administration purposes, has received so much adverse publicity that within a few days after Commissioner Alexander took office he initiated a study of this group. A final decision has not yet been made, but one will be made shortly.

SEARCH WARRANT

COMMONWEALTH OF KENTUCKY,

TO THE SHERIFF, CONSTABLE, OR POLICEMAN OF
PIKE COUNTY, KY.

You are commanded to search, in the day or night time, the house, outbuildings, cabins, now occupied, used, maintained, controlled owned or managed by, ALAN McSURLEY, which property is described as follows: located in Pike County, Kentucky, which premises are located in Pleasant Valley, formerly known as Harold's Branch. This property belongs to A. T. Ewers and consists of two buildings and surrounding grounds, one building has four rooms and bath, is framed with wood siding painted white. The other building is constructed of cinder or concrete blocks for the first story and the second story is framed and the siding has been painted a tan color and consists of two rooms downstairs and one room and bath upstairs. This property is on the left hand side ascending Harold's Branch and is three-fourths of a mile from the Pikeville, Kentucky by-pass for routes U.S. #23, #119 #460. This property is across the branch from property owned and occupied by Estell Lee Carter, in Pike County, Kentucky, and if you find in or upon said premises seditious matter or printing press or other machinery to print or circulate seditious matter you will seize and take possession of it, and deliver it, together with the body of said, Alan McSurley together with this writ, to me at my office as speedily as possible.

Witness my hand this 11 day of August 1967.

Bill Pauley
Judge
Pike Quarterly Court
Pike County, Kentucky.

Order of the United States District Court for the Eastern District of Kentucky at Pikeville

(Filed—September 14, 1967.)

It is the Judgment of this Court that K.R.S. 432.040, under which the state criminal proceeding is based in this case, is upon its face overbroad, so vague and of such sweeping application as to run afoul of the provisions of the United States Constitution, which requires narrow and specific regulation in the field of protected activity.

We hold therefore that K.R.S. 432.040 is unconstitutional. We are further of the opinion that if K.R.S. 432.040 was constitutional, the Federal Government has preempted the law of sedition by enactment of the Smith Act, 18 U.S.C.A. 2385. We do not think the government of Pike County or the government of Kentucky can be overthrown without in part overthrowing the Government of the United States. Federal Courts therefore have exclusive jurisdiction in this field.

Being of the opinion that K.R.S. 432.040 is unconstitutional, we find under the circumstances of this case that *Dombrowski* v. *Pfister* is applicable and the doctrine of abstention is not applicable.

It appearing that the plaintiffs herein face imminent trial in the Pike Circuit Court, we are of the opinion that it is the duty of this Court to exercise its equitable power to prevent the trial from being held. It is therefore ordered and directed that the Commonwealth of Kentucky, and all courts of the Commonwealth, the defendants herein, and any and all persons acting in concert and accord with them be and they are hereby enjoined from taking any further action or proceeding in any manner against these plaintiffs under the statute in issue herein—K.R.S. 432.040, or any change or indictment based on said statute.

The motion of the plaintiffs that this court find the defendant, Ratliff, in contempt is denied.

The motion of the Commonwealth that this Court strike from plaintiffs' complaint as amended the reference to K.R.S. 432.040 and K.R.S. 432.030 is sustained.

The motion by the Commonwealth of Kentucky to dismiss this action as to it is overruled.

It is further ordered that the Intervening Plaintiffs, Carl Braden and Ann Braden, be released from the custody of the Pike County Jailer and Sheriff.

It is further ordered that all the plaintiffs be placed under bond to this Court in the amount of Five Thousand Dollars ($5,000.00) each on their own recognizance to make themselves amenable to the further orders of this Court.

It is further ordered that all books, papers, documents and other material now in the custody of the Commonwealth Attorney of Pike County, Ratcliff, reflected by the Inventory filed in this action continue to be held by him in safe keeping until final disposition of this case by appeal or otherwise.

This the 14th day of September, 1967.

BERT COMBS
Judge, United States Circuit Court
of Appeals, for the Sixth Circuit

JAMES H. GORDON
Judge, United States District Court
for the Western District of Kentucky

Judge Moynahan dissents from the foregoing order except that portion thereof which discusses the citation for contempt of Thomas B. Ratliff, in which portion of the order he concurs.

This the 14th day of September, 1967.

BERNARD T. MOYNAHAN, JR.
Judge, United States District Court
for the Eastern District of Kentucky

Inventory of items seized from the McSurelys by officials of the Commonwealth of Kentucky:

Books

290 volumes of False Witness by Harvey Matuson
1 volume of Red Star Over China—Edgar Snow
1 A Star to Steer By—Hugh Mulgae
1 Future American History—Philip S. Foner
2 The Role of Individuals in History)
The Materialist Conception of History)—Gregory Plekhanor
1 Tricks and Training for Cats—Morris L. Groder
1 The Tasks of the Proletariat in Our Revolution—V. I. Lenin
1 Confession of Faith—W. W. Woodward
1 The Fourth Branch of Government—Douglass Cater
1 The Rebel—Albert Camus
1 What is to Be Done—N. D. Chernyshevsky
1 The Diary of a Redman—Nokolai Gogal
1 Illusion and Realty—Christopher Gaudwell
1 Good News for Modern Man—American Bible Society
1 American Negro Slave Revolts—
1 Weapon—Herbert Aptheker
1 How United States Got Involved in Vietnam—Robert Schee
1 The United States in Vietnam—American Friends Service Committee
1 The Death Agony of Capitalism and the Tasks of the Fourth International (Pioneer Publishers)
Ramparts
Statements of a Religious Bodies in the Conscientious Objector
National Service Board for Religious Objectors
The Teachings of Karl Marx—Lenin
Catholics and Conscientious Objectors—H. Forest
2 volumes—Guide to Conscientious Objection
Marx as an Economist—Maurice Dobb
Communist Manifesto—Karl Marx
Soviet Documents — Frederick Engels — Crosscurrents Press
The Part Played by Labor in the Transition from Ape to Man—Frederick Engels

The Other Side—Staughton Lynn—Thomas Harper
Education of John Reed and Revolution in Spain—John Stuart
The Hoax—Marx and Engels
Lois Lawrence
TVA Democracy on the March—David F. Lillenthal
Mission to Hanoi—Herbert Aptheker
World Trade Union Movement—William Z. Foster
The Negro People in American History—William T. Foster
Old Father Antic—Lois Lawrence
Battle for the Mind—William Sargent
Man, Nature and God—FSC Northrop
Man's Search for Meaning—Vikton E. Frankl
Third Party Movements in United States—Will B. Hesseltine
Easter Week—Brian O'Neill
Quotations from Chairman Mao Tse-Tung
Capital Volume I and II—Karl Marx—Progress Publishers, Moscow
Capital Unabridged—Karl Marx
Volumes I, II and III
Is Communism the Next State—Jacob Budish
The Way of Zen—Adam Watts
Containment and Change—Carl Oglesby & Richard Shaull
Tactics of Extremism—Harry & Bonaro Overstreet
Progress or Poverty—Leon H. Keyserling
Grinnell College Bulletin
Vietnam—The Inside Story of The Guerilla War—Winfred G. Burchett
The Wretched of the Earth—Franz Fanon
The Makings of a Just Society—Chester Bowles
Freedomways
Letters to Americans—Marx and Engels
Malthus—Marx and Engels
Reader in Marxist Philosophy (From M. E. and Howard Solsam & Harry Martel—Lenin)
Economic Growth and Underdeveloped Countries—Maurice Dobb
16 volumes—Labor Fact Book—Labor Research Association
17 volumes—Labor Fact Book—Labor Research Association

International Regional Organizations—Ruth C. Lawson
Political Economy—John Eaton
Role of Individual in History—George Plekhanor
Materialist Conception of History—George Plekhanor
Problems of Contemporary History—R. Palmer Putt
Architecture and Form—Peter Blake
Militarism and Industry—Victor Perlo
Mill Town—Bill Cahn
Case of Joe Hill—Philip S. Foner
Mao Tse-Tung—Selected Works
Mission to Hanoi—(Combine)
Pre -Capitalist Economic Formations—Marx
18th Brunaire of Louis Bonaparte—Marx
Handbook for Conscientious Objectors
Selected Poems—Bertolt Brecht
Socialism—Utopian and Scientific—Engels
Foundations of Leninism—Stalin
Vietnam North—Wilfred C. Burchett
The Human Ideology—Marx and Engels
Ludwig Feuderbach—Engels
Three Who Made a Revolution—Bertram P. Wolfe
History of American Trolskism—James P. Cannon
Mao Tse-Tung—Volume II
History of Cuba I—Philip S. Foner
History of Cuba II—Philip S. Foner
Materialist Conception of History—S. Plek
Mill Town—Bill Cahn
Income Revolution—Victor Perlo
The Forest—William J. Pomeroy
Alderson Story—Elizabeth Gurley Flynn
True Believer—Eric Hoffer
Introduction to Marxism—Enele Burns
(Illegible)—The Spark Highway and the City—Lewis Mumford
The Same Poor—John Updike
Sidahanths—Herman Hesse
Asylums—Broina Goffman
Ancient Pagan Symbols—Elizabeth Goldsmith
Ideas They Cannot Sail—Eugene Dennis
How to Make Money in one Day at the Track—Charles S. Raomanelli
Hans and Rebels—Jessica Mitford

Peaceful Coexistence—John and Margrit Pittman
Psychotherapy East and West—Alan W. Watts
Theory of Knowledge—Maurice Cornforth
Poverty and Roots and Future—Hyman Lumer
The Open Society—Stanley Ryeson
Bureaucracy in Modern Society—Peter Blau
The Small Group—Michaels Olmsted
Brothers Karamazov—Fyodor Dostoyevsky
The Inheritance—Mollard Lampell
John L. Lewis
Soviet Documents—Vol. II—Kruschchev
Labor Fact Book No. 17—Labor Research Association
The Press—A. J. Liebling
Middletown—Orbert Lynd and Helen Lynd
Collected Poems of W. B. Yeats
Inside Story of Guerilla War—Wilfred G. Burchett
Yesterday's People—Jack E. Weller
Empire of High Finance—Victor Perlo
Compesea Nation—Sidney Finleston
The Magic Form—Phillip Bonosky
The Education of John Reed—John Stuart
Guerilla Warfare—Che Gurvara
The Potomac
A Star to Steer By—Hugh Mutae
Holmes Institute—Principals of Leadership
Stravinsky on the Theatre
Communist Manifesto—Marx and Engels
The Stormtrooper
New Politics News—Convention Center
Union for All Railroad Wor'.ers
Freedom School Poetry
Liberation—Independent Monthly—July-67—March-67
3 copies—Ramparts—Feb., Oct., Nov. 1966—Dec. 66
2 copies—Office, Chief of Ordinance and Principles of Leadership
Cap Grantees—Office of Economic Opportunity
Crime and Delinquency (Apr. 64—Oct. 1964)
Leader in Marxist Philosophy
The Paris Commune—V. I. Lenin
Studies on the Left
Value, Price and Profit—Marx
To the Rural Poor—V. I. Lenin

2 copies—Proletarian Revolution and Renegade—Kautsky—Lenin
In Friend's Vanguard—NAACP
Private Organization Providing Assistance In Indoor Recreation—Dept. of Interior
Freedom School Poetry
Mountain Education Program
Mission to Hanoi
The FBI Secret Service Coverup—Harold Weisberg
Dialectional and Historical Materialism—Stalin
Communist Manifesto—Marx
ETC—Charles L. Todd—Volumes I and II
To the Rural Poor—V. I. Lenin
Trends on American Capitalism—Labor-Research Association
War Elections—Lee Morton
101 Famous Poems—Roy J. Cook
2 copies—House Unamerican Activities Committee
2 copies—A Southerner Looks at Negro Discrimination—Geo. W. Cable
State and Revolution
Boys and Girls At Work in USSR—Alexei Antonv
I. W. W. Songs
18th Brumaire of Louis Bonaparte—Marx
ETC—Elisabeth Hartiett
2 copies—Value, Price and Profit—Marx
Negro Slave Revolts in U. S.—Hox
Soviet Documents
Head Start—Child Development Programs
The American Civil War—Herbert Aptheker
Coal Mines and Coal Miners
25 years of Industrial Unionism
The Big Wage Gyp—I. U. M. N. S. W.
The Union on the Job—I. U. M. N. S. W.
Science versus Idealism—Maurice Cornforth
Our Respected Society—Seymore Melonar
The Truth About Vietnam
The Mike Gold Reader
Salt of the Earth—Herbert Biberman
Ivan P. Pao 300
People on Guan Sapes—Wendell Johnson
Papa Wore No Halo—Susan H. Jefferies

Point of the Lance—Sargent Shriver
Giant at the Crossroads—M. Ilin F. Segal
2 copies—Existentialism and Alienation on American Literature—Sidney Findelstein
John Brown—W. E. Burghardt Du Bois
Ring of Truth—J. B. Phillips
The Negro on Southern Agriculture—Victor Perlo
Basic Writings of C. O. Jung
Economic and Philosophic Manuscripts of 1844—Marx
Illusion and Reality—Christopher Caudwell
The Ambassador—Morris L. West
Economic & Philosophic Manuscripts of 1844—Marx
Economic Growth in Underdeveloped Countries
2 copies—Critique of the Gotha Programs—Marx
18th Brumaire of Louis Bonaparte—Marx
Lenin—Marx Engels
Basic Writings of Sigmund Freud
Pennsylvania Avenue—Presidents Temporary Commission on Pennsylvania Ave.
Why I Am Not A Christian—Bertrand Russell
The Press and American—Emery and Smith
The World and Africa—W. E. Burghard Du Bois
Living Time and the Integration of the Life—Maurice Nicoll
Wage, Labor and Capital—Marx
Value, Price and Profit
Beyond the Chains of Illusion—Erich From
Metropolitan Transportation Problem—Wilford Owen
Guerilla Warfare—William S. Pomeroy
Introduction to Marxism—Emile Burns
Fear and Trembling The Sickness Unto Death—Kirkegard
Poverty Its Roots and Its Future—Hyman Lumer
Rice Grains—Amado U. Herman Hes
Gene Debs—Herbert M. Morris and William Cahn
Petrenius—Waters
Mans Wordly Bonds—Leo Huberman
Between Men and Man—Martha Buber
The Right of Nations to Self Determination—V. I. Lenin
The Woman Question—
The Life and Writings of Frederick Douglas

Man's Struggle for Shelter on an Urbaning World—Charles Abrams
Men & Revolution—John Lewis
Moves that Matter
1965—Peace Calendar and Appointment Book
Poetry & Prose—William Cullen Bryant
Guide—April 1967
Jeane Soles
The Correspondent
1—Notebook Binder and Contents
Draft Age Listen—American Friends Service Comm. Cambridge, Mass.
1—Film Box—containing 3 metal cannisters containing
Vaya Con Dios Part I, II, III
Guffanti Film Lab. New York, N. Y.
Address on box to Mrs. Margaret McSurely, Pikeville, Ky.
26—Posters Assorted sized black and white and colored
Smallest 14 x 20
Largest 30 x 24
Box No. 1—Wooden Book containing College Examinations and Review notes, cancelled checks, cancelled checks deposits slips of Alan McSurely until 1965
Box No. 2—Box contains 13 brown manilla envelopes containing items such as paid receipts, blank checks and personal correspondence, information on symphony orchestras and letters on campus politics
Box No. 3—Box contains newspaper clippings local and out of state—personal correspondence—John Birch coloring book
Box No. 4
A. Contains individual insert files containing program reports and progress reports.
1. Pike County
2. Summer Ideas
3. Project Response
4. Miscellaneous File
5. South West File
6. Why Not?
7. No. III—Manifesto For Radical America
8. Congress Heights
9. C.C.A.P.

10. Miscellaneous Items

Box No. 5

A. Contains printed literature and American magazines and newspapers.
   1. One insert file—Noon Minutes and J and BR Court No. 616
   2. Literature on Metropolitan Development

Box No. 6

A. File folder A to Z on forms and information on training and projects and general information about the office.

Box No. 7

A. Literature on urban American environment and newspaper clippings also literature on a conference to improve quality of urban America.

Box No. 8

A. Box containing assorted literature, guitar courses, poster design and manufacturer, carbon paper, and National Magazines, U.P.O. Planning Memos, and Pictures and Personal Correspondence.

Box No. 9

A. Folder containing 15 lapel buttons of Black Power inscribed SNCC.

Box No. 10

A. Contains files and Index cards on humans or indivduals, pictures. A banner on the March on Washington, income tax statement (1964) Mimeographed literature.

Box No. 11

A. Contains cancelled checks and personal banking information of Mr. and Mrs. Alan McSurely of Pikeville, Kentucky and Mrs. Margaret H. Laughum of Washington, D.C., also insurance information of the above.

Box No. 12

A. Contains Questions and Answers on Vista, National Magazines, rough drafts, personal correspondence, newspaper clippings, The Freedom Government and information on the free school.

Box No. 13

A. Contains a Washington yellow page telephone directory, assorted paper back books such as the Bitter War, Negro Military Servicemen, and Racial Discrimination in Housing, National Magazines, personal correspondence, newspapers and other civil rights literature, also Antipoverty program.

Box No. 14

A. Contains assorted handbills, literature on Bureau of Mines, a book entitled The Southern Apalachian Region, and National Magazines, and a Williamson Daily newspaper dated Wednesday, August 16—Caption reads Sedition Case.

   Handbills as follows:
   1. 37—How to Put out Community News
   2. 94—Compare the Candidates is the headline of a political advertisement of a Louisville Times dated May 10, 1967.
   3. 54—The Third Reconstruction
   4. 27—Seeds of Democracy
   5. 1—Booklet on Freedom of Choice and Housing which is a Manual for Negro House Seekers.

   Rough notes and Files, a notebook and an outline of information on Juvenile Delinquency Problems in the United States.

Box No. 15

A. One box of national newspapers and magazines and one piece of plate glass, and a U.M.W.A. Journal, also a handbook on legal right of the poor in the Kentucky mountains.

Box No. 16

A. Box contains national magazines, printing equipment as ink, blotter, and two cans of Dri-Fast Ink, a Workbook on Maryland-National Capital Park and Planning Commission, 150 4" x 8" envelopes with the return addresses as follows: Southern Conference Educational Fund, 3210 W. Broadway, Louisville, Kentucky 40211, one bookend, ashtrays, civil rights literature and brochure on Metropolitan Washington, an annual report of the Council of Governments.

Box No. 17

A. Index files—One of the Far North East and another of Personal correspondence. A file of three short plays by Alan McSurely entitled:
   1. The Bathroom
   2. We, I, We
   3. I Was Late

B. Personal correspondence of Keystone Securities Incorporated.
C. First Drafts File
   1. Rough Draft of personal correspondence.

Box No. 18

A. Handbill Literature
   1. 5 Books on Bituminous Coal Facts of 1966
   2. 37 Copies of Kentucky Public Assistance Benefits on Medical Assistance Programs
   3. 46 copies of Kentucky Public Assistance for Aged, Blind, and Disabled
   4. 16 Copies of Kentucky Public Assistance on Civil Rights
      a. All this material published by Commonwealth of Ky.
   5. Copies 177 of Coal
   6. 100 Copies of New Uses for Good Earth
   7. 62 pamphlets of Poverty Affluence Applachian Wonderland by Harry M. Caudill and William C. Blizzard
   8. 29 copies of Coal origin of valuable natural resources
   9. 58 copies of page inserts of training manual
   10. 36 Handbills of Poor People's Corporation
   11. 188 pamphlet of Map of Coal Areas in the United States
   12. 1 House Un-American Activities Committee
   13. 64 SNCC Acts on Draft a newspaper
   14. 17 copies of Find Out the Facts Before its Too Late
   15. 4 copies of Coal Aid to Higher Education
   16. 7 Assorted copies of newsletter Nation
   17. 65 copies of Four Kentucky Miners Face Prison Terms

Box No. 19

A. Handbills and Newsletters
   1. 9 copies of the Children of Vietnam
   2. 7 copies of the Vietnam Report
   3. 60 copies of the Southern Patriot
   4. 4 copies of the Government of the Black, By the Black, For the Black
   5. 6 copies of Changes

   6. 3 copies of the Deep South Patriot
   7. 36 copies of Marian Davis Scholarship Fund.
   8. 4 Medical Problems of South Vietnam dated January 1967.
   9. 1 copy of American Liberal
   10. 2 copies of Considerable Comment on Selective Service.
   11. 2 copies of Questions and Answers on Vietnam.
   12. 2 copies of We Burned Every Hut.
   13. 1 copy of Vietnam: The Case of Extrication.
   14. 2 copies of The United States and Vietnam
   15. 2 copies of Catholics and Conscientious Objection.
   16. 1 copy of American Lifelines—Federal Aid for Highways.
   17. 2 Magnetic Recording tapes of a 7 inch reel, one in carton, entitled Forty Cents a Ton, the other title
   18. 100 bundles of Getting People Together.
   19. 24 bundles of Introduction.
   20. 2 bundles of Maximum Feasible Participation.
   21. 125 pages of Page 3 of Getting People Together.
   22. 320 pages of Page 2 of Getting People Together.
   23. 300 pages of Page 1 of Getting People Together.
   24. 540 pages of Introduction.
   25. 3 pamphlets on Water, Poverty and Political Power in Appalachia.
   26. 129 pages on Maximum, Feasible Participation.
   27. 10 on Join the Struggle for a Decent War.

B. All information following on a pamphlet of the political union.
   1. 24 sheets of A New Political Union.
   2. 37 sheets of Page 3.
   3. 24 sheets of Page 7.
   4. 18 sheets of Page 8.
   5. 4 sheets of Page 9.
   6. 24 sheets of Page 10.
   7. 32 sheets of Page 11.
   8. 24 sheets of Page 4.
   9. 34 sheets of Page 13.
   10. 27 sheets of Page 16.
   11. 47 sheets of Page 17.
   12. 32 sheets of Page 14.
   13. 32 sheets of Page 13.

C. 39 Copies of Life with Lyndon and the Great Society.
D. One green metal filing cabinet, consisting of two drawers of files.
   1. Consists of rough drafts, personal correspondence, typewritten correspondence, and newspaper clippings.
E. One brown file cabinet.
   1. Consisting of two drawers. (each drawer approximately half full)
      a. Organizational literature, procedure manuals and assorted road maps.
F. File drawer on Mr. Joseph Mulloy of Pikeville, Kentucky.
   1. Information on file as follows:
      a. A—Appalachian Freedom School
      b. AV—Stories
      c. AV—Workers
      d. AV—Policies
      e. AV—Proposal—What is?
      f. CAD
      g. CAD
      h. Community Newspapers
      i. Bob Cole's evaluation
      j. Appalachian Stories
      k. Information on South
      l. Marrabone News
      m. Island Creek News
      n. By-laws
      o. Join Newsletter
      p. Join Chicago Newsletter
      q. Left over notes
      r. Highlander
      s. Pike County
      t. Pike County
      u. AV Board
      v. Poverty—Rights Actions
      w. SNCC
      x. Organizing in a White Community
      y. U.M.W.A. Unions
      z. Coal
      AA. Taxes and Insurance Information
      BB. Strip Mining

      CC. O.E.C.—Vista Publicity
      DD. Wise County
      EE. S.D.S.
      FF. Developing Organization in the Ghettos
      GG. Automobiles
      HH. General Correspondence to Joe Mulloy
      II. Al McSurely
      JJ. Last file had no caption
   2. Back of drawer contained the following books.
      1. Mao Tse-Tung—Anne Fremantle
      2. Catch-22—Joseph Heller
      3. Socialist Thought—Albert Fried and Ronald Sanders
      4. Essential Works of Lenin—Henry W. Christian
      5. The Berkely Student Revolt—Seymour Martin Lipset and Sheldon S. Wolin
      6. Great Russian Short Stories—Morris Houghton
      7. Corridors of Power—C. P. Snow

Box No. 20

A. Contains Handbill Literature either damaged or soiled by folding or by walking, notebook binder and typewritten information termed The Organizer's Wor. - book.
B. One small blue binder containing typewritten and handwritten addresses and phone numbers of individuals.
   1. This binder is half full.

Box No. 21

A. A small brown box of inventoried exhibits displayed at Lexington, Ky. as marked.

Box No. 22

A. Contains 29 individual folders of personal information programmed and counted by the Commonwealth of Kentucky Attorney Mr. Thomas B. Ratliff and his assistants includes small notebook of personal memos of Mrs. Margaret Laughum McSurely of Atlanta, Georgia.

All the above articles and literature will remain in the custody of Thomas B. Ratliff, Commonwealth Attorney, Pikeville, Ky.

Items to be returned by Thomas B. Ratliff Commonwealth of Kentucky Attorney to the plaintiffs in the above

styled case by way of the office of Mr. Dan Jack Combs attorney for the plaintiffs of Pikeville, Kentucky.

1—Large bread box containing personal items such as pictures, pencils, bookends, unused paper, unused memo books, assorted literature and manuals distributed by Commonwealth of Kentucky.

Also items of personal nature to Mrs. McSurely—unused checks and bank books, road maps and secretarial aids.

1—Wardrobe bag—scotchplaid full of clothing and personal belongings

This inventory was conducted by Thomas B. Ratliff, Thaddeus Scott, Deputy United States Marshals, Joe R. Mullins and Ernest S. Mike under the supervision of Mr. Archie Craft United States Marshal for the Eastern District of Kentucky on September 12, 1967 in the Pike County Courthouse at Pikeville, Kentucky.

/s/ ARCHIE CRAFT
Archie Craft
Eastern District of Kentucky

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA v. ALAN MCSURELY, *et al.* DEFENDANTS.	Criminal Nos.: 1376-69 1377-69 AFFIDAVIT

MORTON STAVIS being duly sworn deposes and says:

1. I am one of counsel to the defendants in this matter.

2. Defendants in this case have been charged with contempt of congress in that they failed to respond to a subpoena.

3. Heretofore certain proceedings were had in this matter as a result of which the United States Court of Appeals in the District of Columbia issued its opinion under date of March 26, 1970, No. 23, 845.

4. One of the several issues in the within prosecution concerns the validity of the subpoena in the light of the following:

a) The defendants were the object of a prosecution by the State of Kentucky in connection with which certain documents and records of theirs were seized.

b) The prosecution was found to be unconstitutional by the United States District Court for the Eastern District of Kentucky.

c) After the prosecution and its attendant search were found to be unconstitutional, agents of the Senate Sub-Committee surreptitiously examined the documents which had been unlawfully seized by state officials.

d) The subpoena issued by the Senate Sub-Committee is itself unlawful because it was based upon the inspection of documents which were unconstitutionally seized.

5. The Court of Appeals in its opinion summarized this argument as follows:

> "the documents in issue were originally taken from their possession in an unlawful search and seizure by

agents of the State of Kentucky;* that the information upon which the present subpoenas are based stems from an examination of the illegally seized documents by a staff member of the Senate Subcommittee after the seizure had been declared unconstitutional; and that, therefore, the subpoena is unlawful.**

(slip sheet opinion, P. 7)

6. Heretofore in all prior proceedings in this matter the Government has contended that the subpoena was not unlawful because there was an independent factual basis upon which the subpoena was composed. For example, in its brief submitted by the Government in the United States Court of Appeals for the Sixth Circuit, in the case known as McSurely v. Ratliff, 398 F.2d 817, the Government said:

> "Here the record established that the other information possessed by the Subcommittee concerning appellants and the various organizations involved provides an "independent source" supporting issuance and enforcement of the subpoenas."

7. In view of the position of the Government to date, the defendants had been proceeding upon the assumption that the Government at the time of the trial would attempt to prove facts to establish the foregoing position.

8. In response to a motion to dismiss, heretofore made in this case, the Government recognized this issue and stated the following:

> "The question of whether the subpoena is invalid because the original seizure of the records was invalid is not directly presented by this motion. It will undoubtedly come up in the course of the trial. Assuming the invalidity of the original seizure of the documents by the Kentucky authorities, it may become necessary to establish that the connection between that seizure and the subcommittee subpoena is "so attenuated as to dissipate the taint." *Nardone* v. *United States*, 308

* See McSurely v. Ratliff, 398 F.2d 817 (6th Cir. 1968); McSurely v. Ratliff, 282 F. Supp. 848 (E.D. Ky. 1967).

** Elkins v. United States, 364 U.S. 206, 215, 221-23 (1960); Silverthorne Lumber Co. v. United States, 251 U.S. 385, 391-92 (1920).

U.S. 338, 341 (1939); cf *Clemons* v. *United States*, — U.S. App. D.C. —, 408 F.2d 1230 (1968), *cert. denied*, 394 U.S. 964 (1969).

9. Following the decision of the Court of Appeals herein, the defendants made their motion now pending before this Court seeking pretrial inspection of documents pursuant to rule 17C and pretrial depositions.

10. In response to the foregoing motion the Government has now filed a document in which it states the following:

> "The Government concedes—and is willing so to stipulate—that but for the opportunity to examine the documents which was afforded to the subcommittee staff as a result of the seizure by agents of the Commonwealth of Kentucky, the subcommittee would not have known of the existence of said documents and hence would not have issued a subpoena for their production."
>
> See memorandum by Mr. Bress, P. 3.

11. The position now stated by the Government makes it clear that there is nothing left to try in this case.

12. The Government now concedes that it "would not have issued a subpoena" for the production of the documents except for its having examined them after they had been seized by agents of the Commonwealth of Kentucky. The unlawfulness of their seizure is a matter which has been adjudicated and which the Government now concedes. The subpoena cannot stand in the light of *Silverthorne* v. *United States*, 251 U.S. 385.

For the foregoing reasons it is respectfully submitted that the indictments herein should be dismissed.

MORTON STAVIS
N.P.—Seymour Hochberg

State of New York
County of New York
Sworn to and subscribed
before me this 24th day of
April, 1970.

[726] JOHN BRICK

was recalled to the witness stand by the Government, having been previously duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. BRESS:

Q Mr. Brick, you have heard some testimony here about your having, and I think the word was that you stole certain records.

A That was the word, sir.

Q That you had stole from some authorities who had custody of records in Kentucky.

MR. STAVIS: I object, Your Honor. That was not the testimony. They were stolen from the McSurelys. They were not stolen from the Kentucky authorities and I don't think he [727] ought to misstate what the testimony was in a question.

MR. BRESS: Maybe we can stipulate.

Do you say that your clients, neither of them, testified that Mr. Brick stole some records?

MR. STAVIS: I didn't say that they didn't so testify. They did not say that they were stolen from Kentucky officials. The records were stolen from the McSurelys.

MR. BRESS: That Mr. Brick stole them from the McSurelys?

MR. STAVIS: They had first been stolen by the Kentucky officials and he in turn took them from them. He stole them from the McSurelys, yes.

THE COURT: It is the jury's recollection of the facts that will control.

MR. BRESS: I wanted to be brief since there was some reflection on this member of the Committee staff and I thought for that reason I should bring him back.

BY MR. BRESS:

Q I am not sure now whether they said that you stole them from the State or from the McSurelys, but in any event, did you steal any records from anybody?

A. No, sir.

Q There was, as you heard, evidence that you brought to

Washington from Kentucky, and it is supposed to be a batch of 234 documents, some of which involved personal letters?

[728] A That is correct.

Q With respect to that batch of documents, my questions are, one: Did you play any part at all in the selection of those documents?

A No, sir.

Q From whom did you get those documents?

Did you request them or demand them or were they offered to you?

A They were offered to me. I did not request them or demand them.

Q When you got them, did you take them back to Washington?

A I did.

Q From whom did you get them?

A I got them from Thadeus Scott, the Commonwealth Detective in Pike County.

Q Do you know whether or not Mr. Scott was authorized by the States Attorney's office, the law enforcement people, to let you inspect the records or to give you any part of the records?

A I did.

I was so informed. As a matter of fact, the Assistant Commonwealth's Attorney, Mr. Dotson, was with me most of the time while I was inspecting the records.

Q I gather you not only inspected these 200-and-some items, but all the rest of the items?

[729] A I wouldn't want to say all. I would say almost all. I may have missed some of them. I did not inspect the records of a man named Joseph Malloy. They were mixed in with these. I had no interest in those.

Q These records were obtained in the manner you have described in what month?

A In October of 1967.

Q And did they—did there come a time when you returned those documents?

A Yes, sir.

Q During the time that you had possession of the documents, were they publicly—publicized, distributed or seen by anybody outside of the Committee?

A No, sir, and not by anybody inside of the Committee, either.

Q Where were the documents maintained?

A In my personal file under lock and key and the key was always in my pocket and that was by order of Senator McClellan.

Q Did Senator McClellan look at those records?

A No, sir. He looked at one.

Q Did there come a time when you—after the expiration of certain litigation between the McSurelys and the officials in Kentucky, did you then return that batch of documents to the authorities in Kentucky?

[730] A I did.

I returned them to Thadeus Scott on August 14, 1968.

Q And is the receipt that has been marked listing the 230-some documents, is that the receipt that you got when you returned them?

A That is the receipt I prepared and he signed, yes.

Q Did you retain any of the documents thereafter or did you make any copy of any documents and retain them in your file?

A I never made a single copy of any of those documents.

I retained none. I have not now and the Subcommittee has none.

All the documents were returned to Mr. Thadeus Scott.

I have never used a Xerox machine on those documents, although it has been said here a number of times that I did.

I did not.

MR. BRESS: I think that is all I have.

CROSS-EXAMINATION

BY MR. STAVIS:

Q What was the one that you showed to Senator McClellan?

A That was a letter.

Q Which one?

A If you will show me the list, I will tell you.

No. 201.

Q That is a letter dated—

[731] MR. BRESS: May we approach the Bench?

MR. STAVIS: May I identify what it is?

THE COURT: You will approach the Bench first.

(At the Bench:)

MR. BRESS: First, any particular item that may have been shown to a Senator is not relevant.

The witness was called for the purpose of refuting the fact that he had not stolen any records and what the custody of those records were.

I think that if there is one item involving a personal letter that may have been shown, I think that it would be prejudicial to the person involved in this case and possibly to people who are departed.

THE COURT: Yes. Actually, the prejudice would be to the defendant herself and the name signed here is Drew.

It could be Drew Pearson that has been referred to here, but that is not clear.

In any event, this Exhibit is in evidence.

Your objection is noted and overruled.

(In open Court:)

MR. STAVIS: May I read it?

THE COURT: Yes, you may.

MR. STAVIS: No. 201, is a letter dated, "October 6, 1964, on flight letterhead of North Central Airlines, addressed Dearest Cucumber and signed Drew."

[732] BY MR. STAVIS:

Q I take it, Mr. Brick, that you showed that letter to Senator McClellan as part of his duties to investigate the causes of riots in the United States?

MR. BRESS: I object.

THE COURT: The objection is sustained.

If there is any further interruption in this courtroom, the courtroom will be cleared.

You are entitled to be here as long as you conduct yourselves as you should in a courtroom, but if there is any further laughter in the courtroom, it will be cleared.

MR. STAVIS: Your Honor, I had no idea that would occur.

THE COURT: This is the last warning I will give.

You may proceed.

BY MR. STAVIS:

Q For what purpose did you show that letter to Senator McClellan?

A For—well, first of all, to inform him about it, of course.

It was a letter involving a person—a person prominent nationally and I didn't want to have it, without his knowing that I had it.

Q Have you finished?

A He told me to lock it up and, as a matter of fact, [733] he gave me different instructions on that. And that was in addition to locking it up, he told me to put it in an envelope to be marked only to be opened by John Brick.

It was to be opened only by John Brick, J. S. Adams, General Counsel and Senator McClellan.

Q You showed him the letter?

A Yes, sir.

Q You didn't just tell him that you had the letter?

A No, sir. He didn't read it. He glanced at it.

Q He did glance at it?

A Yes.

Q How long a letter was it?

A It was—

MR. BRESS: I submit, Your Honor, this is—

THE COURT: I will allow some latitude.

THE WITNESS: My memory fails me, Mr. Stavis, on that.

I don't believe I ever looked at it again after I put it in that sealed envelope.

BY MR. STAVIS:

Q Did you know who the Drew was?

A Yes, sir.

Q Who?

MR. BRESS: I object.

THE COURT: The objection is sustained.

[734] BY MR. STAVIS:

Q You knew, did you not, that Drew Pearson had written numerous columns attacking Senator McClellan, did you not?

MR. BRESS: I object, Your Honor.

THE COURT: The objection is sustained.

You will disregard that last question, members of the jury.

BY MR. STAVIS:

Q And did Senator McClellan say anything about Drew Pearson when you showed him that letter?

MR. BRESS: Objection. Irrelevant.

THE COURT: The objection is sustained.

MR. STAVIS: Now, when you—I think you testified that you played no part in the selection of the 234 documents that were handed to you?

A That is correct.

Q And they were handed to you on what day?

A On October, Sunday the 8th and Monday, the 9th. The year, 1967.

Q And when they were handed to you, did you look at what it was that you were receiving?

A Yes.

Q You looked through that whole list?

A Yes.

Q Did you tell Mr. Dotson or any of the folk with whom [735] you met there that there was some of that stuff that you didn't think that you needed?

A Yes.

Q Did you give it back to them?

A No.

Q Did you need that letter signed Dearest Cucumber or addressed, Dearest Cucumber?

MR. BRESS: Objection. Irrelevant.

THE COURT: He may answer the question.

THE WITNESS: No.

Didn't you say signed Dearest Cucumber and when in fact it says addressed to Dearest Cucumber.

MR. STAVIS: No, I didn't.

THE WITNESS: Was the question, did I need that letter?

BY MR. STAVIS:

Q Yes. For the performance of your duties.

A No, sir.

Q As a matter of fact, in respect to the performance of your duties, you didn't need most of the items in that list, did you?

A Some of them.

There were many others in the locked vault in the Court House that I would have obtained under the subpoena.

Q That what?

A That I would have obtained under the subpoena had not [736] the Subcommittee stopped all action when the defendants went into Court.

Q Did you—when I was asking my questions about this list of 234 items, there were lots of these items that you didn't need at all, correct?

MR. BRESS: Objection. Irrelevant.

THE COURT: I believe he has already answered the question.

BY MR. BRESS:

Q What was your answer?

A Some, yes.

Q Some that you did?

A It was ——

Q Lots?

A I object to the use of the word lots.

Q A great many, a good many?

A Oh, I will say many.

Let me explain.

I didn't select any of these as I told you.

Q Now, what duties were you performing in Pikeville when you were picking up these letters?

MR. BRESS: Objection. Irrelevant.

THE COURT: Well, I will allow some latitude.

The objection is overruled.

You may answer.

[737] THE WITNESS: I was—I went to Pikeville to examine the documents in the Court House.

BY MR. STAVIS:

Q While there, you received these documents?

A Yes.

Q Had you told Mr. and Mrs. McSurely that you were coming to Pikeville?

A No.

Q Had you told Mr. and Mrs. McSurely that you were looking at their papers?

MR. BRESS: I believe this is all meaningless.

MR. STAVIS: Excuse me.

THE COURTS He may answer the question.

THE WITNESS: No.

BY MR. STAVIS:

Q You knew these were Mr. and Mrs. McSurely's papers?

A I knew they had—that they had been seized from them, yes.

I didn't know that they all belonged to them. Some of them belonged to a Joseph Malloy.

Q We are talking only about the McSurelys' papers?

A Right.

Q And before you examined their papers, you had seen an order, had you not, dated September 14, 1967?

A No, sir. That was later. That was my last action in [738] Pikeville on that first visit.

Q When did you examine the file of the United States District Court for the Eastern District of Kentucky?

MR. BRESS: Objection.

THE COURT: The objection is sustained.

BY MR. STAVIS:

Q Before you left Pikeville with these 234-odd papers, had you become aware of the fact that the United States District Court for the Eastern District of Kentucky had ruled——

THE COURT: Just a minute. The objection is sustained.

MR. STAVIS: May we approach the Bench?

THE COURT: Yes.

(At the Bench:)

THE COURT: This has been ruled out continuously throughout this trial, Mr. Stavis. You know that.

MR. STAVIS: All right.

(In open Court:)

BY MR. STAVIS:

Q I think your testimony was that you inspected all the rest of the documents in addition to those documents that were given to you?

A Most of the—Mr. Stavis, as I say, I may not have examined everyone carefully.

Q And you were free to take copies of anything that you chose to take?

[739] A No, sir.

Q Did you ask for copies of any of the documents?

A No.

I planned to return to Pikeville with the subpoenaes.

Q They had a Xerox machine in the office there, didn't they?

A I don't know.

Q They handed you Xerox copies—Mr. Dotson handed you Xerox copies?

A Not Mr. Dotson, but Mr. Scott.

Q In the presence of Mr. Dotson?

A No. He only in my presence in my motel room——

Q Mr. Scott handed you these papers in your motel room?

A Correct.

Q And the next day you went to the Court House, is that correct?

A Correct.

Q And examined the rest of the papers?

A Correct.

Q And you didn't ask for any other copies?

A No, sir.

MR. STAVIS: No further questions.

MR. BRESS: That is all.

THE COURT: You may step down.

MR. BRESS: The Government rests.

[740] MR. STAVIS: I have one last question.

BY MR. STAVIS:

Q You have authored a number of books, haven't you?

A 23.

Q Is one of them entitled, "The Raid"?

A Yes, and one is entitled, "The Richmond Raid."

MR. STAVIS: Thank you.

MR. BRESS: One moment.

REDIRECT EXAMINATION

BY MR. BRESS:

Q I had forgotten to ask you this.

You heard some description of the silly snicker or silly smile or something on your face.

A Yes.

Q That was at the time of the service on Mr. McSurely?

A I heard that.

Q Is that true? Is that true?

MR. STAVIS: That is beyond the scope of redirect.

THE WITNESS: No.

THE COURT: He said it is a question he overlooked.

The objection is overruled. You may answer.

BY MR. BRESS:

Q Answer the question.

A I heard the testimony, yes.

Q Is it true?

[741] A No.

RECROSS-EXAMINATION

BY MR. STAVIS:

Q Is that about the smile that you had just then?

A I beg your pardon?

Q Is that the way you are smiling now?

A That is just the way everybody smiles.

MR. BRESS: I object.

THE COURT: The objection is sustained.

Does that complete the examination of this witness?

MR. STAVIS: Yes.

MR. BRESS: Yes.

THE COURT: You may be excused.

THE WITNESS: Thank you, Your Honor.

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SUPREME COURT OF THE UNITED STATES

No. 76-1621

John L. McClellan, et al.,

Petitioners,

v.

Alan McSurely, et ux.

ORDER ALLOWING CERTIORARI. Filed October 11, 1977

The petition herein for a writ of certiorari to the United States Court of Appeals for the District of Columbia—Circuit is granted.

☆ U.S. Government Printing Office: 1977—230-760/99